

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 83

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO TAXATION OF PERSONAL PROPERTY; AMENDING SECTION  
 2 63-602KK, IDAHO CODE, TO REVISE THE FISCAL YEAR THAT IS USED TO  
 3 CALCULATE WHEN THE EXEMPTION TAKES EFFECT AND TO PROVIDE  
 4 ADDITIONAL PROCEDURES FOR APPLICATION FOR THE EXEMPTION AND  
 5 RECOVERY OF THE EXEMPTION THAT WAS IMPROPERLY CLAIMED OR  
 6 APPROVED; AMENDING SECTION 63-802, IDAHO CODE, TO CORRECT  
 7 THE CALCULATION OF THE THREE PERCENT PROPERTY TAX BUDGET  
 8 LIMITATION RELATING TO REIMBURSEMENT MONEYS FOR EXEMPT  
 9 PERSONAL PROPERTY; AMENDING SECTION 63-803, IDAHO CODE, TO  
 10 CORRECT THE DEFINITION OF "TAXABLE VALUE" OF PROPERTY ON THE  
 11 BASE ASSESSMENT ROLL OF A REVENUE ALLOCATION AREA; DECLARING  
 12 AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.  
 13

14 Be It Enacted by the Legislature of the State of Idaho:

15 SECTION 1. That Section 63-602KK, Idaho Code, be, and the same is hereby amended  
 16 to read as follows:

17 63-602KK. PROPERTY EXEMPT FROM TAXATION – CERTAIN PERSONAL  
 18 PROPERTY. (1) On and after January 1, 2009, subject to subsection (2) of this section, each  
 19 taxpayer’s personal property, located in the county, which is not otherwise exempt and which  
 20 is not operating property, shall be exempt to the extent of one hundred thousand dollars  
 21 (\$100,000). For the purposes of this section, a taxpayer includes two (2) or more individuals  
 22 using the property in a common enterprise or a related group of two (2) or more organizations  
 23 when the individuals or organizations are within a relationship described in section 267 of the  
 24 Internal Revenue Code, as defined in section 63-3004, Idaho Code.

25 (2) This section shall not take effect on January 1, 2009, if on September 1, 2008, the  
 26 state controller certifies that the receipts to the general fund for the fiscal year ending June  
 27 30, 2008, have not exceeded receipts to the general fund from the previous fiscal year by five  
 28 percent (5%) or more. This section shall take effect on January 1 of the year following the first  
 29 year when the state controller certifies to the state tax commission that receipts to the general  
 30 fund for the fiscal year just ended have exceeded the receipts to the general fund during the  
 31 ~~previous~~ fiscal year 2008 by five percent (5%) or more.

32 (3) No later than the third Monday of November of each year, the county clerk of each  
 33 county shall certify to the state tax commission the amount of exemption from property taxes  
 34 under subsection (1) of this section, in that county for that year. The certification shall identify  
 35 the property receiving tax reductions, the value of the property, the property’s location, the  
 36 amount of the tax levy applicable to personal property in the location, and the tax before and  
 37 after the exemption allowed in subsection (1) of this section. The certification shall be in the  
 38 form prescribed by the state tax commission and shall include such additional information as

1 the commission may require by rule as needed to implement the purpose of this section. The  
 2 certification shall be reviewed and if necessary, corrected by the state tax commission.

3 (4) (a) Subject to the limitations of this section, the state tax commission shall reimburse  
 4 from the amount appropriated for personal property tax replacement in section 63-3638,  
 5 Idaho Code, the county treasurer of each county for the reduction on the certification  
 6 provided in subsection (3) of this section. The county treasurer shall reimburse from  
 7 the amount received to each taxing district within the county an amount in proportion  
 8 to the amount of reduction shown on the certification in subsection (3) of this section  
 9 as corrected. The amount that would otherwise be attributable to tax revenues derived  
 10 from tax levies on ~~taxable~~ personal property exempted by this section within an existing  
 11 revenue allocation area as defined in section 50-2903(15), Idaho Code, ~~on or before~~  
 12 ~~January 1, 2009~~, shall be paid directly by the county treasurer to such public body or  
 13 agency entitled ~~therein~~ thereto, equal to the amounts that would have been distributed  
 14 in accordance with the formula for such distribution set forth in section 50-2908, Idaho  
 15 Code.

16 (b) The state tax commission shall pay one-half (1/2) of the reimbursement provided  
 17 in this section no later than December 20 of each year, and the second one-half (1/2)  
 18 shall be paid by no later than June 20 of the following year. The money received  
 19 by the county tax collector under the provisions of this section may be considered by  
 20 counties and other taxing districts and budgeted against at the same time, and in the same  
 21 manner, and in the same year as revenues from taxation. The total amount paid to the  
 22 county treasurers shall not exceed the amount certified to the state tax commission under  
 23 subsection (3) of this section.

24 (c) For purposes of the limitation provided by section 63-802, Idaho Code, moneys  
 25 received from distributions pursuant to section 63-3638, Idaho Code, as property tax  
 26 replacement for the taxable value of property exempt from taxation pursuant to this  
 27 section shall be treated as property tax revenues.

28 (5) Nothing contained in this section shall affect the taxation of forest lands or forest  
 29 products pursuant to chapter 17, title 63, Idaho Code, or the taxation of the net profits of mines  
 30 pursuant to chapter 28, title 63, Idaho Code.

31 (6) A taxpayer need only make application for the exemption in this section once, as  
 32 long as all of the following conditions are met:

33 (a) The taxpayer has received the exemption during the previous year as a result of him  
 34 making a valid application as defined in this section.

35 (b) The amount of the exemption allowed by this section is more than the maximum  
 36 value of personal property owned by the taxpayer.

37 (c) The taxpayer has not made purchases of personal property that would cause the  
 38 aggregate value of the personal property owned by the taxpayer to exceed the maximum  
 39 amount allowed as an exemption by this section.

40 (d) For every year the taxpayer claims the exemption, he shall sign an affidavit on a form  
 41 provided by the state tax commission, reciting the averments set forth in this section. A  
 42 fraudulent claim set in an affidavit shall subject the taxpayer to a fine not in excess of ten  
 43 thousand dollars (\$10,000) in addition to other penalties set forth in this chapter.

44 (7) Recovery of property tax exemptions allowed by this section but improperly claimed  
 45 per affidavit:

1 (a) Upon discovery of evidence, facts or circumstances indicating any exemption allowed  
2 by this section was improperly claimed, the county assessor shall decide whether the  
3 exemption claimed should have been allowed, and if not, notify the board of county  
4 commissioners, at which time the board may waive a recovery of the property tax and  
5 notify such taxpayer in writing.

6 (b) The assessment and collection of the recovery of property tax must begin within  
7 the seven (7) year period beginning on the date the assessment notice reflecting the  
8 improperly claimed exemption was required to be mailed to the taxpayer.

9 (c) The taxpayer may appeal to the board of tax appeals the decision by the board of  
10 county commissioners to assess the recovery of property tax within thirty (30) days of the  
11 date the county assessor sent the notice to the taxpayer pursuant to this section.

12 (d) For purposes of calculating the tax, the amount of the recovered property tax shall be  
13 for each year the exemption allowed by this section was improperly claimed or approved,  
14 up to a maximum of seven (7) years. The amount of the recovery of property tax shall be  
15 calculated using the product of the amount of exempted value for each year multiplied by  
16 the levy for that year plus costs, late charges and interest for each year at the rates equal  
17 to those provided for delinquent property taxes during that year. In cases of fraud, the  
18 fine set forth in subsection (6)(d) of this section shall be assessed for each annual affidavit  
19 filed.

20 (e) Any recovery of property tax shall be due and payable no later than the date provided  
21 for property taxes in section 63-903, Idaho Code, and if not timely paid, late charges  
22 and interest, beginning the first day of January in the year following the year the county  
23 assessor sent the notice to the taxpayer pursuant to this section, shall be calculated at the  
24 current rate provided for property taxes.

25 (f) Recovered property taxes shall be billed, collected and distributed in the same manner  
26 as property taxes, except each taxing district or unit shall be notified of the amount of any  
27 recovered property taxes included in any distribution.

28 (g) Thirty (30) days after the taxpayer is notified, as provided in subsection (7)(a) of this  
29 section, the assessor shall record a notice of intent to attach a lien. Upon the payment  
30 in full of such recovered property taxes prior to the attachment of the lien as provided  
31 in subsection (7)(h) of this section, or upon the successful appeal by the taxpayer, the  
32 county assessor shall record a rescission of the intent to attach a lien within seven (7)  
33 business days of receiving such payment or within seven (7) business days of the county  
34 commissioners' decision granting the appeal.

35 (h) Any unpaid recovered property taxes shall become a lien upon the taxpayer's  
36 personal property in the same manner as provided for property taxes in section 63-206,  
37 Idaho Code, except such lien shall attach as of the first day of January in the year  
38 following the year the county treasurer sent the notice to the taxpayer pursuant to this  
39 section.

40 (i) For purposes of the limitation provided by section 63-802, Idaho Code, moneys  
41 received pursuant to this subsection as recovery of property tax shall be treated as  
42 property tax revenue.

43 SECTION 2. That Section 63-802, Idaho Code, be, and the same is hereby amended to  
44 read as follows:

1           63-802. LIMITATION ON BUDGET REQUESTS – LIMITATION ON TAX  
2 CHARGES – EXCEPTIONS. (1) Except as provided in subsection (3) of this section for tax  
3 year 1995, and each year thereafter, no taxing district shall certify a budget request for an  
4 amount of property tax revenues to finance an annual budget that exceeds the greater of:

5           (a) The dollar amount of property taxes certified for its annual budget for any one (1) of  
6 the three (3) tax years preceding the current tax year, whichever is greater, ~~plus the dollar~~  
7 ~~amount of moneys received pursuant to section 63-3638(12), Idaho Code,~~ for the past tax  
8 year, which amount may be increased by a growth factor of not to exceed three percent  
9 (3%) plus the amount of revenue that would have been generated by applying the levy  
10 of the previous year, not including any levy described in subsection (4) of this section,  
11 or any school district levy reduction resulting from a distribution of state funds pursuant  
12 to section 63-3638(10), Idaho Code, to any increase in market value subject to taxation  
13 resulting from new construction or change of land use classification as evidenced by the  
14 value shown on the new construction roll compiled pursuant to section 63-301A, Idaho  
15 Code; and by the value of annexation during the previous calendar year, as certified by  
16 the state tax commission for market values of operating property of public utilities and by  
17 the county assessor; or

18           (b) The dollar amount of property taxes certified for its annual budget during the last  
19 year in which a levy was made; or

20           (c) The dollar amount of the actual budget request, if the taxing district is newly created  
21 except as may be provided in subsection (1)(h) of this section; or

22           (d) In the case of school districts, the restriction imposed in section 33-802, Idaho Code;  
23 or

24           (e) In the case of a nonschool district for which less than the maximum allowable  
25 increase in the dollar amount of property taxes is certified for annual budget purposes in  
26 any one (1) year, such a district may, in any following year, recover the foregone increase  
27 by certifying, in addition to any increase otherwise allowed, an amount not to exceed one  
28 hundred percent (100%) of the increase originally foregone. Said additional amount shall  
29 be included in future calculations for increases as allowed; or

30           (f) In the case of cities, if the immediately preceding year's levy subject to the limitation  
31 provided by this section, is less than 0.004, the city may increase its budget by an amount  
32 not to exceed the difference between 0.004 and actual prior year's levy multiplied by  
33 the prior year's market value for assessment purposes. The additional amount must be  
34 approved by sixty percent (60%) of the voters voting on the question at an election called  
35 for that purpose and held on the date in May or November provided by law, and may be  
36 included in the annual budget of the city for purposes of this section; or

37           (g) A taxing district may submit to the electors within the district the question of whether  
38 the budget from property tax revenues may be increased beyond the amount authorized in  
39 this section, but not beyond the levy authorized by statute. The additional amount must  
40 be approved by sixty-six and two-thirds percent (66 2/3%) or more of the voters voting  
41 on the question at an election called for that purpose and held on the May or November  
42 dates provided by section 34-106, Idaho Code. If approved by the required minimum  
43 sixty-six and two-thirds percent (66 2/3%) of the voters voting at the election, the new  
44 budget amount shall be the base budget for the purposes of this section; or

45           (h) When a nonschool district consolidates with another nonschool district or dissolves  
46 and a new district performing similar governmental functions as the dissolved district

1 forms with the same boundaries within three (3) years, the maximum amount of a budget  
 2 of the district from property tax revenues shall not be greater than the sum of the amounts  
 3 that would have been authorized by this section for the district itself or for the districts  
 4 that were consolidated or dissolved and incorporated into a new district; or

5 (i) In the instance or case of cooperative service agencies, the restrictions imposed in  
 6 sections 33-315 through 33-318, Idaho Code.

7 (2) In the case of fire districts, during the year immediately following the election of  
 8 a public utility or public utilities to consent to be provided fire protection pursuant to section  
 9 31-1425, Idaho Code, the maximum amount of property tax revenues permitted in subsection  
 10 (1) of this section may be increased by an amount equal to the current year's taxable value of  
 11 the consenting public utility or public utilities multiplied by that portion of the prior year's levy  
 12 subject to the limitation provided by subsection (1) of this section.

13 (3) No board of county commissioners shall set a levy, nor shall the state tax commission  
 14 approve a levy for annual budget purposes which exceeds the limitation imposed in subsection  
 15 (1) of this section, unless authority to exceed such limitation has been approved by a majority  
 16 of the taxing district's electors voting on the question at an election called for that purpose and  
 17 held pursuant to section 34-106, Idaho Code, provided however, that such voter approval shall  
 18 be for a period of not to exceed two (2) years.

19 (4) The amount of property tax revenues to finance an annual budget does not include  
 20 revenues from nonproperty tax sources, and does not include revenue from levies that are voter  
 21 approved for bonds, override levies or supplemental levies, plant facilities reserve fund levies,  
 22 school emergency fund levies or for levies applicable to newly annexed property or for levies  
 23 applicable to new construction as evidenced by the value of property subject to the occupancy  
 24 tax pursuant to section 63-317, Idaho Code, for the preceding tax year.

25 SECTION 3. That Section 63-803, Idaho Code, be, and the same is hereby amended to  
 26 read as follows:

27 63-803. CERTIFICATION OF BUDGETS IN DOLLARS. (1) Whenever any taxing  
 28 district is required by law to certify to any county treasurer, county auditor, county assessor,  
 29 county commissioners or to any other county officer, any property tax levy, upon property  
 30 located within said district, such certification shall, notwithstanding any other provision of the  
 31 law applicable to any such district, be made at the time and in the manner hereinafter provided.

32 (2) The county auditor shall inform each of the taxing districts within his county of the  
 33 taxable value of that district as soon as such value is known to the auditor, whether the value  
 34 comes from the appraisal and assessment of real and personal property, or from allocation of  
 35 the taxable value of operating property, or from other sources.

36 (3) Using the taxable value of the district, the council, trustees, board or other governing  
 37 body of any taxing district shall certify the total amount required from a property tax upon  
 38 property within the district to raise the amount of money fixed by their budget as previously  
 39 prepared or approved. The amount of money so determined shall be certified in dollars to  
 40 the appropriate county commissioners. Any taxing unit, except regional airport authorities,  
 41 located in more than one (1) county shall divide its dollar budget for certification to the  
 42 separate counties by multiplying the amount of such budget by a fraction, the numerator of  
 43 which shall be the total taxable value of all property in such taxing unit within the county  
 44 to which such certification is to be made, and the denominator of which shall be the total  
 45 taxable value of property in such taxing unit in all such counties. Budget certification to the

1 participating counties of regional airport authorities shall be made in the manner prescribed  
2 in section 21-807(10), Idaho Code. Taxable value shall be certified by the county auditor of  
3 each affected county to such taxing unit and such certification shall be used in this formula.  
4 Except as provided in section 33-805, Idaho Code, relating to school emergency fund levies,  
5 the certification to the county commissioners required in this section shall be made not later  
6 than the Thursday prior to the second Monday in September, unless, upon application therefor,  
7 the county commissioners grant an extension of not more than seven (7) working days. After  
8 receipt of this certification, the county commissioners shall make a tax levy as a percent of  
9 taxable value of all property in the taxing district, which when applied to the tax rolls, will  
10 meet the budget requirements certified by such taxing districts.

11 (4) Except as provided in subsection (1)(a) through (e) of section 50-2908, Idaho Code,  
12 for the purpose of this section, "taxable value" shall mean the portion of the equalized assessed  
13 value, less any exemptions, except the exemption for personal property in section 63-602KK,  
14 Idaho Code, and the value that exceeds the value of the base assessment roll for the portion  
15 of any taxing district within a revenue allocation area of an urban renewal district, located  
16 within each taxing district which certifies a budget to be raised from a property tax levy. When  
17 the county auditor is notified of revenues sufficient to cover expenses as provided in section  
18 50-2903(5), Idaho Code, taxable value shall also include the value that exceeds the value of  
19 the base assessment roll for the portion of any taxing district within a revenue allocation area.  
20 For each taxing district, taxable value shall include the value from the property and operating  
21 property rolls for the current year and subsequent and missed property rolls for the prior year or  
22 the best estimate of the subsequent and missed property rolls for the current year.

23 SECTION 4. An emergency existing therefor, which emergency is hereby declared to  
24 exist, this act shall be in full force and effect on and after its passage and approval, and  
25 retroactively to January 1, 2009.