

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 559

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO PROPERTY EXEMPT FROM TAXATION; AMENDING CHAPTER 13, TITLE 63,  
2 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-1305C, IDAHO CODE, TO  
3 PROVIDE FOR LEGISLATIVE INTENT, TO PROVIDE FOR A PROVISIONAL PROPERTY  
4 TAX EXEMPTION ON PROPERTY THAT IS UNDER CONSTRUCTION OR RENOVATION FOR  
5 A TAX EXEMPT PURPOSE, TO PROVIDE FOR THE REVOCATION OF THE PROVISIONAL  
6 EXEMPTION, TO PROVIDE FOR A REFUND OF TAXES THAT WERE COLLECTED ON A TAX  
7 EXEMPT PROPERTY AND TO PROVIDE FOR REFUND PROCEDURES; AMENDING SECTION  
8 63-301A, IDAHO CODE, TO PROVIDE THAT THE NEW CONSTRUCTION ROLL SHALL  
9 NOT INCLUDE ANY TAXABLE MARKET VALUE ATTRIBUTABLE TO THE CONSTRUCTION  
10 OF PROPERTY WITH A PROVISIONAL EXEMPTION AND TO MAKE TECHNICAL CORREC-  
11 TIONS; AMENDING SECTION 63-602, IDAHO CODE, TO PROVIDE THAT A PROPERTY  
12 OWNER MAY APPLY FOR A PROVISIONAL PROPERTY TAX EXEMPTION AND TO MAKE  
13 TECHNICAL CORRECTIONS; AMENDING SECTION 63-802, IDAHO CODE, TO PROVIDE  
14 THAT THE AMOUNT OF PROPERTY TAX REVENUES TO FINANCE AN ANNUAL BUDGET  
15 DOES NOT INCLUDE ANY PROPERTY TAXES THAT WERE COLLECTED AND REFUNDED ON  
16 PROPERTY THAT IS EXEMPT FROM TAXATION BUT SHALL INCLUDE MONEYS RECEIVED  
17 AS RECOVERY OF PROPERTY TAX FOR A REVOKED PROVISIONAL PROPERTY TAX EX-  
18 EMPTION AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY  
19 AND PROVIDING RETROACTIVE APPLICATION.  
20

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

22 SECTION 1. That Chapter 13, Title 63, Idaho Code, be, and the same is  
23 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
24 ignated as Section 63-1305C, Idaho Code, and to read as follows:

25 63-1305C. TAXATION AND REFUND OF PROPERTY TAXES COLLECTED ON A TAX EX-  
26 EMPT PROPERTY. (1) It is the intent of the legislature that property that is  
27 being constructed or renovated to fulfill a purpose that is exempt from taxa-  
28 tion under the constitution or the laws of Idaho shall not be subject to prop-  
29 erty tax during the period of construction or renovation preparatory to its  
30 completion for a tax exempt use.

31 (2) A property owner may apply to the board of county commissioners for  
32 a provisional property tax exemption at the time that a building permit is  
33 applied for or at the time that construction or renovation of the property  
34 begins, whichever is earlier, or at any time thereafter during construction  
35 or renovation of the property. If the board of county commissioners finds  
36 that the intended use of the property, once construction or renovation has  
37 been completed, qualifies for a property tax exemption under the constitu-  
38 tion or the laws of the state of Idaho, it shall grant a provisional prop-  
39 erty tax exemption, conditioned on the achievement of the intended tax ex-  
40 empt purpose. Any property with a provisional property tax exemption shall  
41 not be included on the county assessor's new construction roll, and no taxes  
42 shall be assessed on the property during the period of its exemption.

1 (3) Once construction or renovation of a property with a provisional  
2 property tax exemption has been completed, the board of county commissioners  
3 shall review the tax exempt status of the completed property. In the event  
4 that the property does not qualify for a tax exemption, the board of county  
5 commissioners shall revoke the provisional property tax exemption and the  
6 property owner shall be liable for back taxes that would have been due on the  
7 property during construction, if not for the granting of the provisional  
8 property tax exemption. Property that is actually used for its intended  
9 tax exempt purpose shall be granted a property tax exemption by the board of  
10 county commissioners, if such approval is required under section 63-602,  
11 Idaho Code.

12 (4) In the event that property taxes have been assessed and collected on  
13 a property during the time that it qualified for a provisional property tax  
14 exemption and whose owner applied for a provisional property tax exemption  
15 during construction or renovation, the property owner may apply to the board  
16 of county commissioners for a refund of the property taxes within five (5)  
17 years of the payment of such taxes. The board of county commissioners shall  
18 order a refund of any property taxes imposed on a tax exempt property. The  
19 county commissioners shall refund the collected taxes to the owner within  
20 forty-five (45) days of a finding by the county commissioners or of an order  
21 by the board of tax appeals or a court that the taxes should not have been col-  
22 lected on the property. If the property is only partially exempt, the county  
23 commissioners may apply the amount to be refunded as a credit against taxes  
24 due from the taxpayer in the following year or may use a combination of both a  
25 payment and a credit to effect the refund.

26 (5) As used in this section, "refund" includes property tax described  
27 in subsection (4) of this section found by the county commissioners, the  
28 board of tax appeals or a court to have been overpaid and not lawfully due,  
29 interest due on the refund of such tax, costs and any other amounts ordered  
30 paid by a court or the board of tax appeals.

31 (6) In the event a refund is paid, payments must be made by warrants  
32 drawn on the county's current expense fund by the county auditor. The au-  
33 ditor shall apportion the amount of property taxes canceled as credit to the  
34 tax collector. The auditor shall charge the various funds and taxing dis-  
35 tricts with their proportionate share of the refund and credit the current  
36 expense fund.

37 (7) If a credit is given the following year, the credit shall be allowed  
38 against actual property taxes assessed to the taxpayer by the taxing dis-  
39 tricts that received the taxes being refunded.

40 (8) Amounts equal to the refunds or credits allowed in this section may  
41 not be included in amounts certified pursuant to sections 63-802 through  
42 63-807, Idaho Code.

43 SECTION 2. That Section 63-301A, Idaho Code, be, and the same is hereby  
44 amended to read as follows:

45 63-301A. NEW CONSTRUCTION ROLL. (1) The county assessor shall prepare  
46 a new construction roll, which shall be in addition to the property roll,  
47 which new construction roll shall show:

48 (a) The name of the taxpayer;

1 (b) The description of the new construction, suitably detailed to meet  
2 the requirements of the individual county;

3 (c) A description of the land and its change in use, suitably detailed  
4 to meet the needs of the individual county;

5 (d) The amount of taxable market value added to the property on the cur-  
6 rent year's property roll that is directly the result of new construc-  
7 tion or a change in use of the land or both;

8 (e) The amount of taxable market value added as provided in subsection  
9 (3) (g) of this section as a result of dissolution of any revenue alloca-  
10 tion area;

11 (f) The amount of taxable market value to be deducted to reflect the ad-  
12 justments required in paragraphs (f) (i), (f) (ii), (f) (iii) and (f) (iv)  
13 of this subsection:

14 (i) Any board of tax appeals or court-ordered value change, if  
15 property has a taxable value lower than that shown on any new con-  
16 struction roll in any one (1) of the immediate five (5) tax years  
17 preceding the current tax year;

18 (ii) Any reduction in value resulting from correction of value im-  
19 properly included on any previous new construction roll as a re-  
20 sult of double or otherwise erroneous assessment;

21 (iii) Any reduction in value, in any one (1) of the immediate five  
22 (5) tax years preceding the current tax year, resulting from a  
23 change of land use classification;

24 (iv) Any reduction in value resulting from the exemption provided  
25 in section 63-602W(4), Idaho Code, in any one (1) of the immediate  
26 five (5) tax years preceding the current tax year.

27 (2) As soon as possible, but in any event by no later than the first Mon-  
28 day in June, the new construction roll shall be certified to the county audi-  
29 tor and a listing showing the amount of value on the new construction roll in  
30 each taxing district or unit be forwarded to the state tax commission on or  
31 before the fourth Monday in July. Provided however, the value shown in sub-  
32 section (3) (f) of this section shall be reported to the appropriate county  
33 auditor by the state tax commission by the third Monday in July and the value  
34 sent by the county auditor to each taxing district. The value established  
35 pursuant to subsection (3) (f) of this section is subject to correction by the  
36 state tax commission until the first Monday in September and any such correc-  
37 tions shall be sent to the appropriate county auditor, who shall notify any  
38 affected taxing districts.

39 (3) The value shown on the new construction roll shall include the tax-  
40 able market value increase from:

41 (a) Construction of any new structure that previously did not exist; or

42 (b) Additions or alterations to existing nonresidential structures; or

43 (c) Installation of new or used manufactured housing that did not pre-  
44 viously exist within the county; or

45 (d) Change of land use classification; or

46 (e) Property newly taxable as a result of loss of the exemption provided  
47 by section 63-602W(3) or (4), Idaho Code; or

48 (f) The construction of any improvement or installation of any equip-  
49 ment used for or in conjunction with the generation of electricity and  
50 the addition of any improvement or equipment intended to be so used, ex-

1 cept property that has a value allocated or apportioned pursuant to sec-  
2 tion 63-405, Idaho Code, or that is owned by a cooperative or municipal-  
3 ity, as those terms are defined in section 61-332A, Idaho Code, or that  
4 is owned by a public utility, as that term is defined in section 61-332A,  
5 Idaho Code, owning any other property that is allocated or apportioned.  
6 No replacement equipment or improvements may be included; or

7 (g) Provided such increases do not include increases already reported  
8 on the new construction roll, as permitted in paragraphs (j) and (k)  
9 of this subsection, increases in value over the base value of property  
10 on the base assessment roll within an urban renewal revenue allocation  
11 area that has been terminated pursuant to section 50-2909(4), Idaho  
12 Code, to the extent that this increment exceeds the incremental value  
13 as of December 31, 2006, or, for revenue allocation areas formed after  
14 December 31, 2006, the entire increment value. Notwithstanding other  
15 provisions of this section, the new construction roll shall not include  
16 new construction located within an urban renewal district's revenue  
17 allocation area, except as provided in this paragraph; or

18 (h) New construction, in any one (1) of the immediate five (5) tax years  
19 preceding the current tax year, allowable but never included on a new  
20 construction roll, provided however, that, for such property, the value  
21 on the new construction roll shall reflect the taxable value that would  
22 have been included on the new construction roll for the first year in  
23 which the property should have been included.

24 (i) Formerly exempt improvements on state college or state university-  
25 owned land for student dining, housing, or other education-related pur-  
26 poses approved by the state board of education and board of regents of  
27 the university of Idaho as proper for the operation of such state col-  
28 lege or university provided however, such improvements were never in-  
29 cluded on any previous new construction roll.

30 (j) Increases in base value when due to previously determined incre-  
31 ment value added to the base value as required in sections 50-2903 and  
32 50-2903A, Idaho Code, due to a modification of the urban renewal plan.  
33 In this case, the amount added to the new construction roll will equal  
34 the amount by which the increment value in the year immediately preced-  
35 ing the year in which the base value adjustment described in this sub-  
36 section occurs exceeds the incremental value as of December 31, 2006,  
37 or, for revenue allocation areas formed after December 31, 2006, the en-  
38 tire increment value.

39 (k) Increases in base value when due to previously determined incre-  
40 ment value added to the base value as a result of a de-annexation within  
41 a revenue allocation area as defined in section 50-2903, Idaho Code. In  
42 this case, the amount added to the new construction roll will equal the  
43 amount by which the increment value in the year immediately preceding  
44 the year in which the de-annexation described in this subsection occurs  
45 exceeds the incremental value as of December 31, 2006, or, for revenue  
46 allocation areas formed after December 31, 2006, the entire increment  
47 value within the area subject to the de-annexation.

48 (4) The amount of taxable market value of new construction shall be the  
49 change in net taxable market value that is attributable directly to new con-  
50 struction or a change in use of the land or loss of the exemption provided by

1 section 63-602W(3) or (4), Idaho Code. It shall not include any change in  
 2 value of existing property that is due to external market forces such as gen-  
 3 eral or localized inflation, except as provided in subsection (3) (g) of this  
 4 section.

5 (5) The amount of taxable market value of new construction shall not in-  
 6 clude any new construction of property that has been granted a provisional  
 7 property tax exemption, pursuant to section 63-1305C, Idaho Code. A prop-  
 8 erty owner may apply to the board of county commissioners, if an application  
 9 is required pursuant to section 63-602, Idaho Code, for an exemption from  
 10 property tax at the time the initial building permits are applied for or at  
 11 the time construction of the property has begun, whichever is earlier, or at  
 12 any time thereafter.

13 SECTION 3. That Section 63-602, Idaho Code, be, and the same is hereby  
 14 amended to read as follows:

15 63-602. PROPERTY EXEMPT FROM TAXATION. (1) Property shall be exempt  
 16 from taxation as provided in titles 21, 22, 25, 26, 31, 33, 39, 41, 42, 49, 50,  
 17 67 and 70, Idaho Code, and in chapters 6, 24, 30, 35 and 45, title 63, Idaho  
 18 Code; provided, that no deduction shall be made in assessment of shares of  
 19 capital stock of any corporation or association for exemptions claimed under  
 20 this section, and provided further, that the term "full cash value" wherever  
 21 used in this act shall mean the actual assessed value of the property as to  
 22 which an exemption is claimed.

23 (2) The use of the words "exclusive" or "exclusively" in this chapter  
 24 shall mean used exclusively for any one (1) or more, or any combination of,  
 25 the exempt purposes provided hereunder and property used for more than one  
 26 (1) exempt purpose, pursuant to the provisions of sections 63-602A through  
 27 63-60200, Idaho Code, shall be exempt from taxation hereunder ~~so~~ as long as  
 28 the property is used exclusively for one (1) or more or any combination of the  
 29 exempt purposes provided hereunder.

30 (3) All exemptions from property taxation claimed shall be approved an-  
 31 nually by the board of county commissioners or unless otherwise provided:

32 (a) Exemptions pursuant to sections 63-602A, 63-602F, 63-602I,  
 33 63-602J, 63-602K for land of more than five (5) contiguous acres,  
 34 63-602L(1), 63-602M, 63-602R, 63-602S, 63-602U, 63-602V, 63-602W,  
 35 63-602Z, 63-602DD(1), 63-602EE, 63-60200, 63-2431, 63-3502, 63-3502A  
 36 and 63-3502B, Idaho Code, do not require application or approval by the  
 37 board of county commissioners. For all other exemptions in title 63,  
 38 Idaho Code, the process of applying is as specified in the exemption  
 39 statutes or, if no process is specified and application is necessary to  
 40 identify the property eligible for the exemption, annual application is  
 41 required. Exemptions in other titles require no application.

42 (b) For exemptions that require an application, provided such exemp-  
 43 tions are for property otherwise subject to assessment by the county  
 44 assessor, the application must be made to the county commissioners by  
 45 April 15 and the taxpayer and county assessor must be notified of any de-  
 46 cision by May 15, unless otherwise provided by law. The decision of the  
 47 county commissioners and any subsequent assessment notices sent to the  
 48 taxpayer may be appealed to the county board of equalization pursuant to  
 49 sections 63-501 and 63-501A, Idaho Code.

1 (c) For exemptions that require an application, provided such exemp-  
 2 tions are for property otherwise subject to assessment by the state tax  
 3 commission, application for exemption shall be included with the an-  
 4 nual operator's statement as required pursuant to section 63-404, Idaho  
 5 Code. Notice of the decision and its effect on the assessment will be  
 6 provided in accordance with procedures specified in chapter 4, title  
 7 63, Idaho Code. Appeals shall be made to the state tax commission in ac-  
 8 cordance with section 63-407, Idaho Code.

9 (4) An owner of property that is intended for a tax exempt purpose may  
 10 apply to the board of county commissioners for a provisional property tax ex-  
 11 emption, pursuant to section 63-1305C, Idaho Code.

12 SECTION 4. That Section 63-802, Idaho Code, be, and the same is hereby  
 13 amended to read as follows:

14 63-802. LIMITATION ON BUDGET REQUESTS -- LIMITATION ON TAX CHARGES  
 15 -- EXCEPTIONS. (1) Except as provided in subsections (3) and (4) of this  
 16 section, no taxing district shall certify a budget request for an amount of  
 17 property tax revenues to finance an annual budget that exceeds the greater of  
 18 paragraphs (a) through (k) of this subsection inclusive:

19 (a) The dollar amount of property taxes certified for its annual bud-  
 20 get for any one (1) of the three (3) tax years preceding the current tax  
 21 year, whichever is greater, for the past tax year, which amount may be  
 22 increased by a growth factor of not to exceed three percent (3%) plus  
 23 the amount of revenue calculated as described in this subsection. Mul-  
 24 tiple the levy of the previous year, not including any levy described  
 25 in subsection (4) of this section, or any school district levy reduc-  
 26 tion resulting from a distribution of state funds pursuant to section  
 27 63-3638(11) or (13), Idaho Code, by the value shown on the new construc-  
 28 tion roll compiled pursuant to section 63-301A, Idaho Code; and by the  
 29 value of annexation during the previous calendar year, as certified by  
 30 the state tax commission for market values of operating property of pub-  
 31 lic utilities and by the county assessor;

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

34 (c) The dollar amount of the actual budget request, if the taxing dis-  
 35 trict is newly created, except as may be provided in paragraph (i) of  
 36 this subsection;

37 (d) In the case of school districts, the restriction imposed in section  
 38 33-802, Idaho Code;

39 (e) In the case of a nonschool district for which less than the maximum  
 40 allowable increase in the dollar amount of property taxes is certified  
 41 for annual budget purposes in any one (1) year, such a district may,  
 42 in any following year, recover the forgone increase by certifying, in  
 43 addition to any increase otherwise allowed, an amount not to exceed one  
 44 hundred percent (100%) of the increase originally forgone. Provided  
 45 however, that prior to budgeting any forgone increase, the district  
 46 must provide notice of its intent to do so, hold a public hearing, which  
 47 may be in conjunction with its annual budget hearing, and certify by  
 48 resolution the amount of forgone increase to be budgeted and the spe-  
 49 cific purpose for which the forgone increase is being budgeted. Upon

1 adoption of the resolution, the clerk of the district shall file a copy  
2 of the resolution with the county clerk and the state tax commission.  
3 Said additional amount shall be included in future calculations for  
4 increases as allowed;

5 (f) If a taxing district elects to budget less than the maximum allow-  
6 able increase in the dollar amount of property taxes, the taxing dis-  
7 trict may disclaim the right to recover all or any portion of that year's  
8 forgone increase by adoption of a resolution declaring the same. The  
9 district must provide notice of its intent to do so, and hold a public  
10 hearing, which may be in conjunction with its annual budget hearing if  
11 applicable. The resolution to disclaim the right to recover the for-  
12 gone increase for that year shall be adopted at the annual budget hear-  
13 ing of the taxing district if the district has a budget hearing require-  
14 ment; provided however, that the resolution shall not apply to forgone  
15 increases from prior budget years.

16 (g) In the case of cities, if the immediately preceding year's levy  
17 subject to the limitation provided by this section, is less than 0.004,  
18 the city may increase its budget by an amount not to exceed the differ-  
19 ence between 0.004 and actual prior year's levy multiplied by the prior  
20 year's market value for assessment purposes. The additional amount  
21 must be approved by sixty percent (60%) of the voters voting on the ques-  
22 tion at an election called for that purpose and held on the date in May or  
23 November provided by law, and may be included in the annual budget of the  
24 city for purposes of this section;

25 (h) A taxing district may submit to the electors within the district  
26 the question of whether the budget from property tax revenues may be  
27 increased beyond the amount authorized in this section, but not beyond  
28 the levy authorized by statute. The additional amount must be approved  
29 by sixty-six and two-thirds percent (66 2/3%) or more of the voters  
30 voting on the question at an election called for that purpose and held  
31 on the May or November dates provided by section 34-106, Idaho Code.  
32 If approved by the required minimum sixty-six and two-thirds percent  
33 (66 2/3%) of the voters voting at the election, the new budget amount  
34 shall be the base budget for the purposes of this section;

35 (i) When a nonschool district consolidates with another nonschool  
36 district or dissolves and a new district performing similar governmen-  
37 tal functions as the dissolved district forms with the same boundaries  
38 within three (3) years, the maximum amount of a budget of the district  
39 from property tax revenues shall not be greater than the sum of the  
40 amounts that would have been authorized by this section for the district  
41 itself or for the districts that were consolidated or dissolved and in-  
42 corporated into a new district;

43 (j) In the instance or case of cooperative service agencies, the re-  
44 strictions imposed in sections 33-315 through 33-318, Idaho Code;

45 (k) The amount of money received in the twelve (12) months immediately  
46 preceding June 30 of the current tax year as a result of distributions of  
47 the tax provided in section 63-3502B(2), Idaho Code.

48 (2) In the case of fire districts, during the year immediately follow-  
49 ing the election of a public utility or public utilities to consent to be pro-  
50 vided fire protection pursuant to section 31-1425, Idaho Code, the maximum

1 amount of property tax revenues permitted in subsection (1) of this section  
2 may be increased by an amount equal to the current year's taxable value of the  
3 consenting public utility or public utilities multiplied by that portion of  
4 the prior year's levy subject to the limitation provided by subsection (1) of  
5 this section.

6 (3) No board of county commissioners shall set a levy, nor shall the  
7 state tax commission approve a levy for annual budget purposes, which ex-  
8 ceeds the limitation imposed in subsection (1) of this section unless au-  
9 thority to exceed such limitation has been approved by a majority of the tax-  
10 ing district's electors voting on the question at an election called for that  
11 purpose and held pursuant to section 34-106, Idaho Code, provided however,  
12 that such voter approval shall be for a period of not to exceed two (2) years.

13 (4) The amount of property tax revenues to finance an annual budget  
14 does not include revenues from nonproperty tax sources, and does not include  
15 revenue from levies that are voter-approved for bonds, override levies or  
16 supplemental levies, plant facilities reserve fund levies, school emergency  
17 fund levies or for levies applicable to newly annexed property or for levies  
18 applicable to new construction as evidenced by the value of property subject  
19 to the occupancy tax pursuant to section 63-317, Idaho Code, for the preced-  
20 ing tax year. The amount of property tax revenues to finance an annual budget  
21 does not include any property taxes that were collected and refunded on prop-  
22 erty that is exempt from taxation, pursuant to section 63-1305C, Idaho Code.

23 (5) The amount of property tax revenues to finance an annual budget  
24 shall include moneys received as recovery of property tax for a revoked pro-  
25 visional property tax exemption under section 63-1305C, Idaho Code.

26 SECTION 5. An emergency existing therefor, which emergency is hereby  
27 declared to exist, this act shall be in full force and effect on and after its  
28 passage and approval, and retroactively to January 1, 2016.