

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 360

BY GIDDINGS

AN ACT

1 RELATING TO TAXATION POLICIES REGARDING FOOD; AMENDING CHAPTER 36, TITLE
2 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3622H, IDAHO CODE,
3 TO PROVIDE A SALES AND USE TAX EXEMPTION FOR FOOD SOLD FOR HUMAN CON-
4 SUMPTION AND TO DEFINE A TERM; REPEALING SECTION 63-3024A, IDAHO CODE,
5 RELATING TO FOOD TAX CREDITS AND REFUNDS; REPEALING SECTION 63-3077G,
6 IDAHO CODE, RELATING TO THE EXCHANGE OF INFORMATION WITH THE DEPARTMENT
7 OF CORRECTION; REPEALING SECTION 63-3077H, IDAHO CODE, RELATING TO
8 THE EXCHANGE OF INFORMATION WITH THE DEPARTMENT OF HEALTH AND WELFARE;
9 AMENDING SECTION 63-3638, IDAHO CODE, TO REVISE A DISTRIBUTION; AND
10 DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION, AND PROVID-
11 ING EFFECTIVE DATES.
12

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

14 SECTION 1. That Chapter 36, Title 63, Idaho Code, be, and the same is
15 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
16 ignated as Section 63-3622H, Idaho Code, and to read as follows:

17 63-3622H. FOOD FOR HUMAN CONSUMPTION. There is hereby exempted from
18 the sales and use taxes imposed by this chapter the sale of food sold for hu-
19 man consumption. As used in this section, "food" shall have the same defini-
20 tion as provided in 7 U.S.C. 2012 as that section existed on January 1, 2020.
21 The types and kinds of food products eligible for exemption by this section
22 shall be the same types and kinds of food products that are eligible for pur-
23 chase with benefits provided under the federal supplemental nutrition as-
24 sistance program (SNAP) and do not include restaurant sales of food, food
25 sold in a heated state or heated by a seller, two (2) or more food ingredients
26 mixed or combined by a seller for a single sale, or food sold with an eating
27 utensil provided by the seller such as a plate, knife, fork, spoon, glass,
28 cup, napkin, or straw.

29 SECTION 2. That Section 63-3024A, Idaho Code, be, and the same is hereby
30 repealed.

31 SECTION 3. That Section 63-3077G, Idaho Code, be, and the same is hereby
32 repealed.

33 SECTION 4. That Section 63-3077H, Idaho Code, be, and the same is hereby
34 repealed.

35 SECTION 5. That Section 63-3638, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this
38 chapter, except as may otherwise be required in sections 63-3203, 63-3620F,

1 and 63-3709, Idaho Code, and except as provided in subsection (16) of this
2 section, shall be distributed by the state tax commission as follows:

3 (1) An amount of money shall be distributed to the state refund account
4 sufficient to pay current refund claims. All refunds authorized under this
5 chapter by the state tax commission shall be paid through the state refund
6 account, and those moneys are continuously appropriated.

7 (2) Five million dollars (\$5,000,000) per year is continuously appro-
8 priated and shall be distributed to the permanent building fund, provided by
9 section 57-1108, Idaho Code.

10 (3) Four million eight hundred thousand dollars (\$4,800,000) per year
11 is continuously appropriated and shall be distributed to the water pollution
12 control fund established by section 39-3628, Idaho Code.

13 (4) An amount equal to the sum required to be certified by the chair-
14 man of the Idaho housing and finance association to the state tax commis-
15 sion pursuant to section 67-6211, Idaho Code, in each year is continuously
16 appropriated and shall be paid to any capital reserve fund established by
17 the Idaho housing and finance association pursuant to section 67-6211, Idaho
18 Code. Such amounts, if any, as may be appropriated hereunder to the capital
19 reserve fund of the Idaho housing and finance association shall be repaid for
20 distribution under the provisions of this section, subject to the provisions
21 of section 67-6215, Idaho Code, by the Idaho housing and finance associa-
22 tion, as soon as possible, from any moneys available therefor and in excess
23 of the amounts the association determines will keep it self-supporting.

24 (5) An amount equal to the sum required by the provisions of sections
25 63-709 and 63-717, Idaho Code, after allowance for the amount appropriated
26 by section 63-718(3), Idaho Code, is continuously appropriated and shall be
27 paid as provided by sections 63-709 and 63-717, Idaho Code.

28 (6) An amount required by the provisions of chapter 53, title 33, Idaho
29 Code.

30 (7) An amount required by the provisions of chapter 87, title 67, Idaho
31 Code.

32 (8) For fiscal year 2011 and each fiscal year thereafter, four million
33 one hundred thousand dollars (\$4,100,000), of which two million two hundred
34 thousand dollars (\$2,200,000) shall be distributed to each of the forty-four
35 (44) counties in equal amounts and one million nine hundred thousand dol-
36 lars (\$1,900,000) shall be distributed to the forty-four (44) counties in
37 the proportion that the population of the county bears to the population of
38 the state. For fiscal year 2012 and for each fiscal year thereafter, the
39 amount distributed pursuant to this subsection shall be adjusted annually
40 by the state tax commission in accordance with the consumer price index for
41 all urban consumers (CPI-U) as published by the U.S. department of labor,
42 bureau of labor statistics, but in no fiscal year shall the total amount
43 allocated for counties under this subsection be less than four million one
44 hundred thousand dollars (\$4,100,000). Any increase resulting from the ad-
45 justment required in this section shall be distributed to each county in the
46 proportion that the population of the county bears to the population of the
47 state. Each county shall establish a special election fund to which shall
48 be deposited all revenues received from the distribution pursuant to this
49 subsection. All such revenues shall be used exclusively to defray the costs

1 associated with conducting elections as required of county clerks by the
2 provisions of section 34-1401, Idaho Code.

3 (9) One dollar (\$1.00) on each application for certificate of title
4 or initial application for registration of a motor vehicle, snowmobile,
5 all-terrain vehicle or other vehicle processed by the county assessor or the
6 Idaho transportation department, excepting those applications in which any
7 sales or use taxes due have been previously collected by a retailer, shall be
8 a fee for the services of the assessor of the county or the Idaho transporta-
9 tion department in collecting such taxes and shall be paid into the current
10 expense fund of the county or state highway account established in section
11 40-702, Idaho Code.

12 (10) ~~Eleven Twelve~~ and ~~fivefour~~-tenths percent (~~11.5~~12.4%) is continu-
13 ously appropriated and shall be distributed to the revenue-sharing account,
14 which is hereby created in the state treasury, and the moneys in the rev-
15 enue-sharing account will be paid in installments each calendar quarter by
16 the state tax commission as follows:

17 (a) Twenty-eight and two-tenths percent (28.2%) shall be paid to the
18 various cities as follows:

19 (i) Fifty percent (50%) of such amount shall be paid to the vari-
20 ous cities, and each city shall be entitled to an amount in the pro-
21 portion that the population of that city bears to the population of
22 all cities within the state; and

23 (ii) Fifty percent (50%) of such amount shall be paid to the vari-
24 ous cities, and each city shall be entitled to an amount in the pro-
25 portion that the preceding year's market value for assessment pur-
26 poses for that city bears to the preceding year's market value for
27 assessment purposes for all cities within the state.

28 (b) Twenty-eight and two-tenths percent (28.2%) shall be paid to the
29 various counties as follows:

30 (i) One million three hundred twenty thousand dollars
31 (\$1,320,000) annually shall be distributed one forty-fourth
32 (1/44) to each of the various counties; and

33 (ii) The balance of such amount shall be paid to the various coun-
34 ties, and each county shall be entitled to an amount in the propor-
35 tion that the population of that county bears to the population of
36 the state;

37 (c) Thirty-five and nine-tenths percent (35.9%) of the amount appro-
38 priated in this subsection shall be paid to the several counties for
39 distribution to the cities and counties as follows:

40 (i) Each city and county which received a payment under the provi-
41 sions of section 63-3638 (e), Idaho Code, during the fourth quarter
42 of calendar year 1999, shall be entitled to a like amount during
43 succeeding calendar quarters.

44 (ii) If the dollar amount of money available under this subsection
45 (10) (c) in any quarter does not equal the amount paid in the fourth
46 quarter of calendar year 1999, each city's and county's payment
47 shall be reduced proportionately.

48 (iii) If the dollar amount of money available under this subsec-
49 tion (10) (c) in any quarter exceeds the amount paid in the fourth
50 quarter of calendar year 1999, each city and county shall be en-

1 titled to a proportionately increased payment, but such increase
2 shall not exceed one hundred five percent (105%) of the total pay-
3 ment made in the fourth quarter of calendar year 1999.

4 (iv) If the dollar amount of money available under this subsection
5 (10) (c) in any quarter exceeds one hundred five percent (105%) of
6 the total payment made in the fourth quarter of calendar year 1999,
7 any amount over and above such one hundred five percent (105%)
8 shall be paid fifty percent (50%) to the various cities in the pro-
9 portion that the population of the city bears to the population of
10 all cities within the state and fifty percent (50%) to the various
11 counties in the proportion that the population of the county bears
12 to the population of the state; and

13 (d) Seven and seven-tenths percent (7.7%) of the amount appropriated in
14 this subsection shall be paid to the several counties for distribution
15 to special purpose taxing districts as follows:

16 (i) Each such district which received a payment under the pro-
17 visions of section 63-3638 (e), Idaho Code, as such subsection ex-
18 isted immediately prior to July 1, 2000, during the fourth quarter
19 of calendar year 1999, shall be entitled to a like amount during
20 succeeding calendar quarters.

21 (ii) If the dollar amount of money available under this subsec-
22 tion (10) (d) in any quarter does not equal the amount paid in the
23 fourth quarter of calendar year 1999, each special purpose taxing
24 district's payment shall be reduced proportionately.

25 (iii) If the dollar amount of money available under this subsec-
26 tion (10) (d) in any quarter exceeds the amount distributed under
27 paragraph (i) of this subsection (10) (d), each special purpose
28 taxing district shall be entitled to a share of the excess based on
29 the proportion each such district's current property tax budget
30 bears to the sum of the current property tax budgets of all such
31 districts in the state. The state tax commission shall calculate
32 district current property tax budgets to include any unrecovered
33 forgone amounts as determined under section 63-802(1) (e), Idaho
34 Code. When a special purpose taxing district is situated in more
35 than one (1) county, the state tax commission shall determine the
36 portion attributable to the special purpose taxing district from
37 each county in which it is situated.

38 (iv) If special purpose taxing districts are consolidated, the
39 resulting district is entitled to a base amount equal to the sum of
40 the base amounts received in the last calendar quarter by each dis-
41 trict prior to the consolidation.

42 (v) If a special purpose taxing district is dissolved or disin-
43 corporated, the state tax commission shall continuously distrib-
44 ute to the board of county commissioners an amount equal to the
45 last quarter's distribution prior to dissolution or disincorpora-
46 tion. The board of county commissioners shall determine any re-
47 distribution of moneys so received.

48 (vi) Taxing districts formed after January 1, 2001, are not enti-
49 tled to a payment under the provisions of this subsection (10) (d).

1 (vii) For purposes of this subsection (10) (d), a special purpose
2 taxing district is any taxing district that is not a city, a county
3 or a school district.

4 (11) Amounts calculated in accordance with section 2, chapter 356, laws
5 of 2001, for annual distribution to counties and other taxing districts be-
6 ginning in October 2001 for replacement of property tax on farm machinery and
7 equipment exempted pursuant to section 63-602EE, Idaho Code. For nonschool
8 districts, the state tax commission shall distribute one-fourth (1/4) of
9 this amount certified quarterly to each county. For school districts, the
10 state tax commission shall distribute one-fourth (1/4) of the amount certi-
11 fied quarterly to each school district. For nonschool districts, the county
12 auditor shall distribute to each district within thirty (30) calendar days
13 from receipt of moneys from the state tax commission. Moneys received by
14 each taxing district for replacement shall be utilized in the same manner
15 and in the same proportions as revenues from property taxation. The moneys
16 remitted to the county treasurer for replacement of property exempt from
17 taxation pursuant to section 63-602EE, Idaho Code, may be considered by the
18 counties and other taxing districts and budgeted at the same time, in the
19 same manner and in the same year as revenues from taxation on personal prop-
20 erty which these moneys replace. If taxing districts are consolidated, the
21 resulting district is entitled to an amount equal to the sum of the amounts
22 received in the last calendar quarter by each district pursuant to this
23 subsection prior to the consolidation. If a taxing district is dissolved
24 or disincorporated, the state tax commission shall continuously distribute
25 to the board of county commissioners an amount equal to the last quarter's
26 distribution prior to dissolution or disincorporation. The board of county
27 commissioners shall determine any redistribution of moneys so received. If
28 a taxing district annexes territory, the distribution of moneys received
29 pursuant to this subsection shall be unaffected. Taxing districts formed
30 after January 1, 2001, are not entitled to a payment under the provisions
31 of this subsection. School districts shall receive an amount determined by
32 multiplying the sum of the year 2000 school district levy minus .004 times
33 the market value on December 31, 2000, in the district of the property exempt
34 from taxation pursuant to section 63-602EE, Idaho Code, provided that the
35 result of these calculations shall not be less than zero (0). The result of
36 these school district calculations shall be further increased by six per-
37 cent (6%). For purposes of the limitation provided by section 63-802, Idaho
38 Code, moneys received pursuant to this section as property tax replacement
39 for property exempt from taxation pursuant to section 63-602EE, Idaho Code,
40 shall be treated as property tax revenues.

41 (12) Amounts necessary to pay refunds as provided in section 63-3641,
42 Idaho Code, to a developer of a retail complex shall be remitted to the demon-
43 stration pilot project fund created in section 63-3641, Idaho Code.

44 (13) Amounts calculated in accordance with subsection (4) of section
45 63-602KK, Idaho Code, for annual distribution to counties and other taxing
46 districts for replacement of property tax on personal property tax exemp-
47 tions pursuant to subsection (2) of section 63-602KK, Idaho Code, which
48 amounts are continuously appropriated unless the legislature enacts a dif-
49 ferent appropriation for a particular fiscal year. For purposes of the
50 limitation provided by section 63-802, Idaho Code, moneys received pursuant

1 to this section as property tax replacement for property exempt from taxa-
2 tion pursuant to section 63-602KK, Idaho Code, shall be treated as property
3 tax revenues. If taxing districts are consolidated, the resulting district
4 is entitled to an amount equal to the sum of the amounts that were received in
5 the last calendar year by each district pursuant to this subsection prior to
6 the consolidation. If a taxing district or revenue allocation area annexes
7 territory, the distribution of moneys received pursuant to this subsection
8 shall be unaffected. Taxing districts and revenue allocation areas formed
9 after January 1, 2013, are not entitled to a payment under the provisions of
10 this subsection.

11 (14) Amounts collected from purchasers and paid to the state of Idaho by
12 retailers that are not engaged in business in this state and which retailer
13 would not have been required to collect the sales tax, less amounts other-
14 wise distributed in subsections (1) and (10) of this section, shall be dis-
15 tributed to the tax relief fund created in section 57-811, Idaho Code. The
16 state tax commission will determine the amounts to be distributed under this
17 subsection.

18 (15) Any moneys remaining over and above those necessary to meet and
19 reserve for payments under other subsections of this section shall be dis-
20 tributed to the general fund.

21 (16) One percent (1%), but not less than fifteen million dollars
22 (\$15,000,000), is continuously appropriated and shall be distributed to the
23 transportation expansion and congestion mitigation fund established in sec-
24 tion 40-720, Idaho Code. The distribution provided for in this subsection
25 must immediately follow the distribution provided for in subsection (10) of
26 this section.

27 SECTION 6. An emergency existing therefor, which emergency is hereby
28 declared to exist, Sections 2, 3, and 4 of this act shall be in full force
29 and effect on and after passage and approval, and retroactively to January 1,
30 2020, and Section 1 of this act shall be in full force and effect on and after
31 June 1, 2020. Section 5 of this act shall be in full force and effect on and
32 after July 1, 2020.