

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 448

BY NATE

AN ACT

1 RELATING TO THE SALES AND USE TAX; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE,
2 BY THE ADDITION OF A NEW SECTION 63-3622H, IDAHO CODE, TO PROVIDE A SALES
3 AND USE TAX EXEMPTION FOR FOOD SOLD FOR HUMAN CONSUMPTION AND TO DEFINE
4 A TERM; AMENDING SECTION 63-3638, IDAHO CODE, TO REVISE PROVISIONS RE-
5 GARDING THE SALES TAX REVENUE-SHARING DISTRIBUTION; AND DECLARING AN
6 EMERGENCY AND PROVIDING EFFECTIVE DATES.
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8 Be It Enacted by the Legislature of the State of Idaho:

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

12 63-3622H. FOOD FOR HUMAN CONSUMPTION. There is hereby exempted from
13 the sales and use taxes imposed by this chapter the sale of food sold for hu-
14 man consumption. As used in this section, "food" shall have the same defini-
15 tion as provided in 7 U.S.C. 2012 as that section existed on January 1, 2022.
16 The types and kinds of food products eligible for exemption by this section
17 shall be the same types and kinds of food products that are eligible for pur-
18 chase with benefits provided under the federal supplemental nutrition as-
19 sistance program (SNAP) and do not include restaurant sales of food, food
20 sold in a heated state or heated by a seller, two (2) or more food ingredients
21 mixed or combined by a seller for a single sale, or food sold with an eating
22 utensil provided by the seller such as a plate, knife, fork, spoon, glass,
23 cup, napkin, or straw.

24 SECTION 2. That Section 63-3638, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this
27 chapter, except as may otherwise be required in sections 63-3203, 63-3620F,
28 and 63-3709, Idaho Code, and except as provided in subsection (16) of this
29 section, shall be distributed by the state tax commission as follows:

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

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

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

1 (4) An amount equal to the sum required to be certified by the chair-
2 man of the Idaho housing and finance association to the state tax commis-
3 sion pursuant to section 67-6211, Idaho Code, in each year is continuously
4 appropriated and shall be paid to any capital reserve fund established by
5 the Idaho housing and finance association pursuant to section 67-6211, Idaho
6 Code. Such amounts, if any, as may be appropriated hereunder to the capital
7 reserve fund of the Idaho housing and finance association shall be repaid for
8 distribution under the provisions of this section, subject to the provisions
9 of section 67-6215, Idaho Code, by the Idaho housing and finance associa-
10 tion, as soon as possible, from any moneys available therefor and in excess
11 of the amounts the association determines will keep it self-supporting.

12 (5) An amount equal to the sum required by the provisions of sections
13 63-709 and 63-717, Idaho Code, after allowance for the amount appropriated
14 by section 63-718(3), Idaho Code, is continuously appropriated and shall be
15 paid as provided by sections 63-709 and 63-717, Idaho Code.

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

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

20 (8) For fiscal year 2011 and each fiscal year thereafter, four million
21 one hundred thousand dollars (\$4,100,000), of which two million two hundred
22 thousand dollars (\$2,200,000) shall be distributed to each of the forty-four
23 (44) counties in equal amounts and one million nine hundred thousand dol-
24 lars (\$1,900,000) shall be distributed to the forty-four (44) counties in
25 the proportion that the population of the county bears to the population of
26 the state. For fiscal year 2012 and for each fiscal year thereafter, the
27 amount distributed pursuant to this subsection shall be adjusted annually
28 by the state tax commission in accordance with the consumer price index for
29 all urban consumers (CPI-U) as published by the U.S. department of labor,
30 bureau of labor statistics, but in no fiscal year shall the total amount
31 allocated for counties under this subsection be less than four million one
32 hundred thousand dollars (\$4,100,000). Any increase resulting from the ad-
33 justment required in this section shall be distributed to each county in the
34 proportion that the population of the county bears to the population of the
35 state. Each county shall establish a special election fund to which shall
36 be deposited all revenues received from the distribution pursuant to this
37 subsection. All such revenues shall be used exclusively to defray the costs
38 associated with conducting elections as required of county clerks by the
39 provisions of section 34-1401, Idaho Code.

40 (9) One dollar (\$1.00) on each application for certificate of title
41 or initial application for registration of a motor vehicle, snowmobile,
42 all-terrain vehicle or other vehicle processed by the county assessor or the
43 Idaho transportation department, excepting those applications in which any
44 sales or use taxes due have been previously collected by a retailer, shall be
45 a fee for the services of the assessor of the county or the Idaho transporta-
46 tion department in collecting such taxes and shall be paid into the current
47 expense fund of the county or state highway account established in section
48 40-702, Idaho Code.

49 (10) ~~Eleven Twelve~~ and ~~five~~nine-tenths percent (~~11.5~~12.9%) is continu-
50 ously appropriated and shall be distributed to the revenue-sharing account,

1 which is hereby created in the state treasury, and the moneys in the revenue-sharing account will be paid in installments each calendar quarter by
2 the state tax commission on and after July 1, 2020, as follows:
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4 (a) Forty-five and two-tenths percent (45.2%) shall be paid to the various cities as follows:
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6 (i) The revenue-sharing amount calculated by the state tax commission for the various cities for each quarter of fiscal year 2020
7 shall be the base amount for current quarterly revenue distribution amounts. The state tax commission shall calculate the per
8 capita distribution for each city resulting from the previous fiscal year's distributions.
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10 (ii) If there is no change in the amount of the revenue-sharing account from the same quarter of the previous fiscal year, then the
11 various cities shall receive the same amount received for the same quarter of the previous fiscal year.
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13 (iii) If the balance of the revenue-sharing account for the current quarter is greater than the balance of the revenue-sharing
14 account for the same quarter of the previous fiscal year, then:
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16 1. If the distributions made to the cities during the same quarter of the previous fiscal year were below the base
17 amount established in fiscal year 2020, then the various cities shall first receive a proportional increase up to the
18 base amount for each city and up to a one percent (1%) increase over such base amount. Any remaining moneys shall be
19 distributed to cities with a below-average per capita distribution in the proportion that the population of that city
20 bears to the population of all cities with below-average per capita distributions within the state.
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22 2. If the distributions made to the cities during the same quarter of the previous fiscal year were at or above the
23 base amount established in fiscal year 2020, then the cities shall receive the same distribution they received during the
24 same quarter of the previous fiscal year plus a proportional increase up to one percent (1%). Any remaining moneys shall
25 be distributed to the cities with a below-average per capita distribution in the proportion that the population of that
26 city bears to the population of all cities with a below-average per capita distribution within the state.
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28 (iv) If the balance of the revenue-sharing account for the current quarter is less than the balance of the revenue-sharing
29 account for the same quarter of the previous fiscal year, then the cities shall first receive a proportional reduction down to the
30 base amount established in fiscal year 2020. If further reductions are necessary, the cities shall receive reductions based on
31 the proportion that each city's population bears to the population of all cities within the state.
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33 (b) Forty-seven and one-tenth percent (47.1%) shall be paid to the various counties as follows:
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1 (i) Fifty-nine and eight-tenths percent (59.8%) of the amount to
2 be distributed under this paragraph (b) of this subsection shall
3 be distributed as follows:

4 1. One million three hundred twenty thousand dollars
5 (\$1,320,000) annually shall be distributed one forty-fourth
6 (1/44) to each of the various counties; and

7 2. The balance of such amount shall be paid to the various
8 counties, and each county shall be entitled to an amount in
9 the proportion that the population of that county bears to
10 the population of the state; and

11 (ii) Forty and two-tenths percent (40.2%) of the amount to be dis-
12 tributed under this paragraph (b) of this subsection shall be dis-
13 tributed as follows:

14 1. Each county that received a payment under the provisions
15 of section 63-3638(e), Idaho Code, as that subsection ex-
16 isted immediately prior to July 1, 2000, during the fourth
17 quarter of calendar year 1999, shall be entitled to a like
18 amount during succeeding calendar quarters.

19 2. If the dollar amount of money available under this sub-
20 section (10) (b) (ii) in any quarter does not equal the amount
21 paid in the fourth quarter of calendar year 1999, each
22 county's payment shall be reduced proportionately.

23 3. If the dollar amount of money available under this sub-
24 section (10) (b) (ii) in any quarter exceeds the amount paid
25 in the fourth quarter of calendar year 1999, each county
26 shall be entitled to a proportionately increased payment,
27 but such increase shall not exceed one hundred five percent
28 (105%) of the total payment made in the fourth quarter of
29 calendar year 1999.

30 4. If the dollar amount of money available under this sub-
31 section (10) (b) (ii) in any quarter exceeds one hundred five
32 percent (105%) of the total payment made in the fourth quar-
33 ter of calendar year 1999, any amount over and above such
34 one hundred five percent (105%) shall be paid to the various
35 counties in the proportion that the population of the county
36 bears to the population of the state; and

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

40 (i) Each such district that received a payment under the provi-
41 sions of section 63-3638(e), Idaho Code, as such subsection ex-
42 isted immediately prior to July 1, 2000, during the fourth quarter
43 of calendar year 1999, shall be entitled to a like amount during
44 succeeding calendar quarters.

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

49 (iii) If the dollar amount of money available under this subsec-
50 tion (10) (c) in any quarter exceeds the amount distributed under

1 paragraph (c) (i) of this subsection, each special purpose tax-
2 ing district shall be entitled to a share of the excess based on
3 the proportion each such district's current property tax budget
4 bears to the sum of the current property tax budgets of all such
5 districts in the state. The state tax commission shall calculate
6 district current property tax budgets to include any unrecovered
7 forgone amounts as determined under section 63-802(1) (e), Idaho
8 Code. When a special purpose taxing district is situated in more
9 than one (1) county, the state tax commission shall determine the
10 portion attributable to the special purpose taxing district from
11 each county in which it is situated.

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

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

22 (vi) Taxing districts formed after January 1, 2001, are not en-
23 titled to a payment under the provisions of this paragraph (c) of
24 this subsection.

25 (vii) For purposes of this paragraph (c) of this subsection, a spe-
26 cial purpose taxing district is any taxing district that is not a
27 city, a county, or a school district.

28 (11) Amounts calculated in accordance with section 2, chapter 356, laws
29 of 2001, for annual distribution to counties and other taxing districts be-
30 ginning in October 2001 for replacement of property tax on farm machinery and
31 equipment exempted pursuant to section 63-602EE, Idaho Code. For nonschool
32 districts, the state tax commission shall distribute one-fourth (1/4) of
33 this amount certified quarterly to each county. For school districts, the
34 state tax commission shall distribute one-fourth (1/4) of the amount certi-
35 fied quarterly to each school district. For nonschool districts, the county
36 auditor shall distribute to each district within thirty (30) calendar days
37 from receipt of moneys from the state tax commission. Moneys received by
38 each taxing district for replacement shall be utilized in the same manner
39 and in the same proportions as revenues from property taxation. The moneys
40 remitted to the county treasurer for replacement of property exempt from
41 taxation pursuant to section 63-602EE, Idaho Code, may be considered by the
42 counties and other taxing districts and budgeted at the same time, in the
43 same manner and in the same year as revenues from taxation on personal prop-
44 erty which these moneys replace. If taxing districts are consolidated, the
45 resulting district is entitled to an amount equal to the sum of the amounts
46 received in the last calendar quarter by each district pursuant to this
47 subsection prior to the consolidation. If a taxing district is dissolved
48 or disincorporated, the state tax commission shall continuously distribute
49 to the board of county commissioners an amount equal to the last quarter's
50 distribution prior to dissolution or disincorporation. The board of county

1 commissioners shall determine any redistribution of moneys so received. If
2 a taxing district annexes territory, the distribution of moneys received
3 pursuant to this subsection shall be unaffected. Taxing districts formed
4 after January 1, 2001, are not entitled to a payment under the provisions
5 of this subsection. School districts shall receive an amount determined by
6 multiplying the sum of the year 2000 school district levy minus .004 times
7 the market value on December 31, 2000, in the district of the property exempt
8 from taxation pursuant to section 63-602EE, Idaho Code, provided that the
9 result of these calculations shall not be less than zero (0). The result of
10 these school district calculations shall be further increased by six per-
11 cent (6%). For purposes of the limitation provided by section 63-802, Idaho
12 Code, moneys received pursuant to this section as property tax replacement
13 for property exempt from taxation pursuant to section 63-602EE, Idaho Code,
14 shall be treated as property tax revenues.

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

18 (13) Amounts calculated in accordance with section 63-602KK(4), Idaho
19 Code, for annual distribution to counties and other taxing districts for
20 replacement of property tax on personal property tax exemptions pursuant
21 to section 63-602KK(2), Idaho Code, which amounts are continuously ap-
22 propriated unless the legislature enacts a different appropriation for a
23 particular fiscal year. For purposes of the limitation provided by section
24 63-802, Idaho Code, moneys received pursuant to this section as property tax
25 replacement for property exempt from taxation pursuant to section 63-602KK,
26 Idaho Code, shall be treated as property tax revenues. If taxing districts
27 are consolidated, the resulting district is entitled to an amount equal to
28 the sum of the amounts that were received in the last calendar year by each
29 district pursuant to this subsection prior to the consolidation. If a taxing
30 district or revenue allocation area annexes territory, the distribution of
31 moneys received pursuant to this subsection shall be unaffected. Taxing
32 districts and revenue allocation areas formed after January 1, 2022, are not
33 entitled to a payment under the provisions of this subsection.

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

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

44 (16) (a) Four and five-tenths percent (4.5%), but not less than eighty
45 million dollars (\$80,000,000), is continuously appropriated and shall
46 be distributed to the transportation expansion and congestion mitiga-
47 tion fund established in section 40-720, Idaho Code.

48 (b) Any portion of the four and five-tenths percent (4.5%) provided for
49 in paragraph (a) of this subsection that exceeds eighty million dollars
50 (\$80,000,000) is continuously appropriated and shall be apportioned

1 to local units of government for local highway projects in the same
2 percentages provided for in section 40-709(1) through (3), Idaho Code.
3 Local units of government may pool funds allocated to them pursuant to
4 this paragraph for local highway projects.

5 (c) The distribution provided for in this subsection must immediately
6 follow the distribution provided for in subsection (10) of this sec-
7 tion.

8 SECTION 3. An emergency existing therefor, which emergency is hereby
9 declared to exist, Section 1 of this act shall be in full force and effect on
10 and after June 1, 2022, and Section 2 of this act shall be in full force and
11 effect on and after July 1, 2022.