LEGISLATURE OF THE STATE OF IDAHO
Sixty-sixth Legislature Second Regular Session - 2022

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 448

BY NATE

1 AN ACT
2 RELATING TO THE SALES AND USE TAX; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE,
3 BY THE ADDITION OF A NEW SECTION 63-3622H, IDAHO CODE, TO PROVIDE A SALES
4 AND USE TAX EXEMPTION FOR FOOD SOLD FOR HUMAN CONSUMPTION AND TO DEFINE
5 A TERM; AMENDING SECTION 63-3638, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE SALES TAX REVENUE-SHARING DISTRIBUTION; AND DECLARING AN
6 EMERGENCY AND PROVIDING EFFECTIVE DATES.

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

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

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

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

63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this
chapter, except as may otherwise be required in sections 63-3203, 63-3620F,
and 63-3709, Idaho Code, and except as provided in subsection (16) of this
section, shall be distributed by the state tax commission as follows:
(1) An amount of money shall be distributed to the state refund account
sufficient to pay current refund claims. All refunds authorized under this
chapter by the state tax commission shall be paid through the state refund
account, and those moneys are continuously appropriated.
(2) Five million dollars ($5,000,000) per year is continuously appro-
priated and shall be distributed to the permanent building fund, provided by
section 57-1108, Idaho Code.
(3) Four million eight hundred thousand dollars ($4,800,000) per year
is continuously appropriated and shall be distributed to the water pollution
control fund established by section 39-3628, Idaho Code.
(4) An amount equal to the sum required to be certified by the chairman of the Idaho housing and finance association to the state tax commission pursuant to section 67-6211, Idaho Code, in each year is continuously appropriated and shall be paid to any capital reserve fund established by the Idaho housing and finance association pursuant to section 67-6211, Idaho Code. Such amounts, if any, as may be appropriated hereunder to the capital reserve fund of the Idaho housing and finance association shall be repaid for distribution under the provisions of this section, subject to the provisions of section 67-6215, Idaho Code, by the Idaho housing and finance association, as soon as possible, from any moneys available therefor and in excess of the amounts the association determines will keep it self-supporting.

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

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

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

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

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

(10) Eleven Twelve and five-nine-tenths percent (11.512.9%) is continuously appropriated and shall be distributed to the revenue-sharing account,
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 the state tax commission on and after July 1, 2020, as follows:

(a) Forty-five and two-tenths percent (45.2%) shall be paid to the various cities as follows:

(i) The revenue-sharing amount calculated by the state tax commission for the various cities for each quarter of fiscal year 2020 shall be the base amount for current quarterly revenue distribution amounts. The state tax commission shall calculate the per capita distribution for each city resulting from the previous fiscal year's distributions.

(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 various cities shall receive the same amount received for the same quarter of the previous fiscal year.

(iii) If the balance of the revenue-sharing account for the current quarter is greater than the balance of the revenue-sharing account for the same quarter of the previous fiscal year, then:

1. If the distributions made to the cities during the same quarter of the previous fiscal year were below the base amount established in fiscal year 2020, then the various cities shall first receive a proportional increase up to the base amount for each city and up to a one percent (1%) increase over such base amount. Any remaining moneys shall be distributed to cities with a below-average per capita distribution in the proportion that the population of that city bears to the population of all cities with below-average per capita distributions within the state.

2. If the distributions made to the cities during the same quarter of the previous fiscal year were at or above the base amount established in fiscal year 2020, then the cities shall receive the same distribution they received during the same quarter of the previous fiscal year plus a proportional increase up to one percent (1%). Any remaining moneys shall be distributed to the cities with a below-average per capita distribution in the proportion that the population of that city bears to the population of all cities with a below-average per capita distribution within the state.

(iv) If the balance of the revenue-sharing account for the current quarter is less than the balance of the revenue-sharing account for the same quarter of the previous fiscal year, then the cities shall first receive a proportional reduction down to the base amount established in fiscal year 2020. If further reductions are necessary, the cities shall receive reductions based on the proportion that each city's population bears to the population of all cities within the state.

(b) Forty-seven and one-tenth percent (47.1%) shall be paid to the various counties as follows:
(i) Fifty-nine and eight-tenths percent (59.8%) of the amount to be distributed under this paragraph (b) of this subsection shall be distributed as follows:

1. One million three hundred twenty thousand dollars ($1,320,000) annually shall be distributed one forty-fourth (1/44) to each of the various counties; and
2. The balance of such amount shall be paid to the various counties, and each county shall be entitled to an amount in the proportion that the population of that county bears to the population of the state; and

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

1. Each county that received a payment under the provisions of section 63-3638(e), Idaho Code, as that subsection existed immediately prior to July 1, 2000, during the fourth quarter of calendar year 1999, shall be entitled to a like amount during succeeding calendar quarters.
2. If the dollar amount of money available under this subsection (10)(b)(ii) in any quarter does not equal the amount paid in the fourth quarter of calendar year 1999, each county's payment shall be reduced proportionately.
3. If the dollar amount of money available under this subsection (10)(b)(ii) in any quarter exceeds the amount paid in the fourth quarter of calendar year 1999, each county shall be entitled to a proportionately increased payment, but such increase shall not exceed one hundred five percent (105%) of the total payment made in the fourth quarter of calendar year 1999.
4. If the dollar amount of money available under this subsection (10)(b)(ii) in any quarter exceeds one hundred five percent (105%) of the total payment made in the fourth quarter of calendar year 1999, any amount over and above such one hundred five percent (105%) shall be paid to the various counties in the proportion that the population of the county bears to the population of the state; and

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

(i) Each such district that received a payment under the provisions of section 63-3638(e), Idaho Code, as such subsection existed immediately prior to July 1, 2000, during the fourth quarter of calendar year 1999, shall be entitled to a like amount during succeeding calendar quarters.
(ii) If the dollar amount of money available under this subsection (10)(c) in any quarter does not equal the amount paid in the fourth quarter of calendar year 1999, each special purpose taxing district's payment shall be reduced proportionately.
(iii) If the dollar amount of money available under this subsection (10)(c) in any quarter exceeds the amount distributed under
paragraph (c)(i) of this subsection, each special purpose taxing district shall be entitled to a share of the excess based on the proportion each such district's current property tax budget bears to the sum of the current property tax budgets of all such districts in the state. The state tax commission shall calculate district current property tax budgets to include any unrecovered forgone amounts as determined under section 63-802(1)(e), Idaho Code. When a special purpose taxing district is situated in more than one (1) county, the state tax commission shall determine the portion attributable to the special purpose taxing district from each county in which it is situated.

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

(v) If a special purpose taxing district is dissolved or disincorporated, the state tax commission shall continuously distribute to the board of county commissioners an amount equal to the last quarter's distribution prior to dissolution or disincorporation. The board of county commissioners shall determine any redistribution of moneys so received.

(vi) Taxing districts formed after January 1, 2001, are not entitled to a payment under the provisions of this paragraph (c) of this subsection.

(vii) For purposes of this paragraph (c) of this subsection, a special purpose taxing district is any taxing district that is not a city, a county, or a school district.

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

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

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

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

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

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

(b) Any portion of the four and five-tenths percent (4.5%) provided for in paragraph (a) of this subsection that exceeds eighty million dollars ($80,000,000) is continuously appropriated and shall be apportioned
to local units of government for local highway projects in the same
percentages provided for in section 40-709(1) through (3), Idaho Code.
Local units of government may pool funds allocated to them pursuant to
this paragraph for local highway projects.
(c) The distribution provided for in this subsection must immediately
follow the distribution provided for in subsection (10) of this sec-
tion.

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