

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 33

BY BERCH

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; REPEALING SECTION
6 63-3024A, IDAHO CODE, RELATING TO THE FOOD TAX CREDIT; REPEALING SEC-
7 TION 63-3077G, IDAHO CODE, RELATING TO A CERTAIN AGREEMENT FOR EXCHANGE
8 OF INFORMATION; REPEALING SECTION 63-3077H, IDAHO CODE, RELATING TO
9 A CERTAIN AGREEMENT FOR EXCHANGE OF INFORMATION; AMENDING SECTION
10 32-706, IDAHO CODE, TO REMOVE A PROVISION REGARDING THE FOOD TAX CREDIT
11 AND REFUND; AND DECLARING AN EMERGENCY AND PROVIDING 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, 2023.
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 63-3638, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this
32 chapter, except as may otherwise be required in sections 63-3203, 63-3620F,
33 and 63-3709, Idaho Code, and except as provided in subsection (16) of this
34 section, shall be distributed by the state tax commission as follows:

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

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

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

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

18 (5) An amount equal to the sum required by the provisions of sections
19 63-709 and 63-717, Idaho Code, after allowance for the amount appropriated
20 by section 63-718(3), Idaho Code, is continuously appropriated and shall be
21 paid as provided by sections 63-709 and 63-717, Idaho Code.

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

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

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

46 (9) One dollar (\$1.00) on each application for certificate of title
47 or initial application for registration of a motor vehicle, snowmobile,
48 all-terrain vehicle or other vehicle processed by the county assessor or the
49 Idaho transportation department, excepting those applications in which any
50 sales or use taxes due have been previously collected by a retailer, shall be

1 a fee for the services of the assessor of the county or the Idaho transporta-
2 tion department in collecting such taxes and shall be paid into the current
3 expense fund of the county or state highway account established in section
4 40-702, Idaho Code.

5 (10) ~~Eleven and five-tenths percent (11.5%)~~ Thirteen and two-tenths
6 percent (13.2%) is continuously appropriated and shall be distributed to the
7 revenue-sharing account, which is hereby created in the state treasury, and
8 the moneys in the revenue-sharing account will be paid in installments each
9 calendar quarter by the state tax commission as follows:

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

12 (i) Beginning in fiscal year 2025 and each fiscal year there-
13 after, four million dollars (\$4,000,000) shall be transferred
14 each quarter to the state public defense fund created in section
15 57-827, Idaho Code.

16 (ii) After the distribution required by subparagraph (i) of this
17 paragraph, the revenue-sharing amount calculated by the state tax
18 commission for the various cities for each quarter of fiscal year
19 2020 shall be the base amount for current quarterly revenue dis-
20 tribution amounts. The state tax commission shall calculate the
21 per capita distribution for each city resulting from the previous
22 fiscal year's distributions.

23 (iii) If there is no change in the amount of the revenue-sharing
24 account from the same quarter of the previous fiscal year, then the
25 various cities shall receive the same amount received for the same
26 quarter of the previous fiscal year.

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

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

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

1 (v) If the balance of the revenue-sharing account for the cur-
2 rent quarter is less than the balance of the revenue-sharing ac-
3 count for the same quarter of the previous fiscal year, then the
4 cities shall first receive a proportional reduction down to the
5 base amount established in fiscal year 2020. If further reduc-
6 tions are necessary, the cities shall receive reductions based on
7 the proportion that each city's population bears to the population
8 of all cities within the state.

9 (b) Forty-seven and one-tenth percent (47.1%) shall be paid to the var-
10 ious counties as follows:

11 (i) Beginning in fiscal year 2025, five million dollars
12 (\$5,000,000) shall be transferred each quarter to the state public
13 defense fund created in section 57-827, Idaho Code. The growth
14 percentage distributed pursuant to this subparagraph shall be re-
15 calculated each quarter beginning in fiscal year 2026 and in each
16 fiscal year thereafter through fiscal year 2030. If the growth is
17 positive and is calculated over the same period from the previ-
18 ous fiscal year, a proportional increase in the initial transfer
19 amount of up to five percent (5%) annually shall be transferred to
20 the state public defense fund. After fiscal year 2030, an amount
21 equal to one-fourth (1/4) of the total amount transferred to the
22 state public defense fund in fiscal year 2030 pursuant to this
23 subparagraph shall be transferred quarterly to the state public
24 defense fund;

25 (ii) Following the distribution required by subparagraph (i) of
26 this paragraph, fifty-nine and eight-tenths percent (59.8%) of
27 the amount to be distributed under this paragraph (b) of this sub-
28 section shall be distributed as follows:

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

32 2. The balance of such amount shall be paid to the various
33 counties, and each county shall be entitled to an amount in
34 the proportion that the population of that county bears to
35 the population of the state; and

36 (iii) Following the distribution required by subparagraph (i) of
37 this paragraph, forty and two-tenths percent (40.2%) of the amount
38 to be distributed under this paragraph (b) of this subsection
39 shall be distributed as follows:

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

45 2. If the dollar amount of money available under this sub-
46 section (10)(b)(iii) in any quarter does not equal the
47 amount paid in the fourth quarter of calendar year 1999, each
48 county's payment shall be reduced proportionately.

49 3. If the dollar amount of money available under this sub-
50 section (10)(b)(iii) in any quarter exceeds the amount paid

1 in the fourth quarter of calendar year 1999, each county
2 shall be entitled to a proportionately increased payment,
3 but such increase shall not exceed one hundred five percent
4 (105%) of the total payment made in the fourth quarter of
5 calendar year 1999.

6 4. If the dollar amount of money available under this sub-
7 section (10) (b) (iii) in any quarter exceeds one hundred five
8 percent (105%) of the total payment made in the fourth quar-
9 ter of calendar year 1999, any amount over and above such
10 one hundred five percent (105%) shall be paid to the various
11 counties in the proportion that the population of the county
12 bears to the population of the state; and

13 (c) 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 that received a payment under the provi-
17 sions 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) (c) 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) (c) in any quarter exceeds the amount distributed under
27 paragraph (c) (i) of this subsection, each special purpose tax-
28 ing 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 en-
49 titled to a payment under the provisions of this paragraph (c) of
50 this subsection.

1 (vii) For purposes of this paragraph (c) of this subsection, a spe-
2 cial purpose taxing district is any taxing district that is not a
3 city, a county, 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 section 63-602KK(4), Idaho
45 Code, for annual distribution to counties and other taxing districts for
46 replacement of property tax on personal property tax exemptions pursuant
47 to section 63-602KK(2), Idaho Code, which amounts are continuously ap-
48 propriated unless the legislature enacts a different appropriation for a
49 particular fiscal year. For purposes of the limitation provided by section
50 63-802, Idaho Code, moneys received pursuant to this section as property tax

1 replacement for property exempt from taxation pursuant to section 63-602KK,
2 Idaho Code, shall be treated as property tax revenues. If taxing districts
3 are consolidated, the resulting district is entitled to an amount equal to
4 the sum of the amounts that were received in the last calendar year by each
5 district pursuant to this subsection prior to the consolidation. If a taxing
6 district or revenue allocation area annexes territory, the distribution of
7 moneys received pursuant to this subsection shall be unaffected. Taxing
8 districts and revenue allocation areas formed after January 1, 2022, are not
9 entitled to a payment under the provisions of this subsection.

10 (14) For fiscal years 2023 and 2024 only, a sum of thirty-four million
11 dollars (\$34,000,000) shall be distributed each year by the state tax com-
12 mission to the forty-four (44) counties in the proportion that the expen-
13 ditures of each county for indigent defense services during county fiscal
14 year 2021, excluding any state funding or grants, bear to the expenditures
15 of all counties in the state for indigent defense services during county fis-
16 cal year 2021, excluding any state funding or grants. No later than July 1,
17 2022, the state public defense commission shall certify to the state tax com-
18 mission each county's proportionate share of all counties' indigent defense
19 expenses in county fiscal year 2021, excluding any state funding or grants.

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

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

27 (b) Any portion of the four and five-tenths percent (4.5%) provided for
28 in paragraph (a) of this subsection that exceeds eighty million dollars
29 (\$80,000,000) is continuously appropriated and shall be apportioned
30 to local units of government for local highway projects in the same
31 percentages provided for in section 40-709(1) through (3), Idaho Code.
32 Local units of government may pool funds allocated to them pursuant to
33 this paragraph for local highway projects.

34 (c) The distribution provided for in this subsection must immediately
35 follow the distribution provided for in subsection (10) of this sec-
36 tion.

37 (17) Beginning in fiscal year 2024 and each fiscal year thereafter,
38 three hundred thirty million dollars (\$330,000,000) shall be distributed
39 annually to the public school income fund created in section 33-903, Idaho
40 Code, and eighty million dollars (\$80,000,000) shall be distributed annu-
41 ally to the in-demand careers fund established in section 33-4305, Idaho
42 Code. The state tax commission shall make such transfers in quarterly in-
43 stallments. The distributions required by this subsection must immediately
44 follow the distributions provided for in subsection (16) of this section.

45 SECTION 3. That Section [63-3024A](#), Idaho Code, be, and the same is hereby
46 repealed.

47 SECTION 4. That Section [63-3077G](#), Idaho Code, be, and the same is hereby
48 repealed.

1 SECTION 5. That Section [63-3077H](#), Idaho Code, be, and the same is hereby
2 repealed.

3 SECTION 6. That Section 32-706, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 32-706. CHILD SUPPORT. (1) In a proceeding for divorce or child sup-
6 port, the court may order either or both parents owing a duty of support to a
7 child to pay an amount reasonable or necessary for his or her support and edu-
8 cation until the child is eighteen (18) years of age, without regard to mari-
9 tal misconduct, after considering all relevant factors which may include:

- 10 (a) The financial resources of the child;
11 (b) The financial resources, needs, and obligations of both the custo-
12 dial and noncustodial parents which ordinarily shall not include a par-
13 ent's community property interest in the financial resources or obli-
14 gations of a spouse who is not a parent of the child, unless compelling
15 reasons exist;
16 (c) The standard of living the child enjoyed during the marriage;
17 (d) The physical and emotional condition and needs of the child and his
18 or her educational needs;
19 (e) The availability of medical coverage for the child at reasonable
20 cost as defined in section 32-1214B, Idaho Code; and
21 (f) The actual tax benefit recognized by the party claiming the federal
22 child dependency exemption.

23 (2) If the child continues his high school education subsequent to
24 reaching the age of eighteen (18) years, the court may, in its discretion,
25 and after considering all relevant factors which include those set forth in
26 subsection (1) of this section, order the continuation of support payments
27 until the child discontinues his high school education or reaches the age of
28 nineteen (19) years, whichever is sooner.

29 (3) All child support orders shall notify the obligor that the order
30 will be enforced by income withholding pursuant to chapter 12, title 32,
31 Idaho Code. Failure to include this provision does not affect the validity
32 of the support order. The court shall require that the social security num-
33 bers of both the obligor and obligee be included in the order or decree.

34 (4) In a proceeding for the support of a child or a minor parent, the
35 court may order the parent(s) of each minor parent to pay an amount reason-
36 able or necessary for the support and education of the child born to the minor
37 parent(s) until the minor parent is eighteen (18) years of age, after consid-
38 ering all relevant factors which may include:

- 39 (a) The financial resources of the child;
40 (b) The financial resources of the minor parent;
41 (c) The financial resources, needs and obligations of the parent of the
42 minor parent;
43 (d) The physical and emotional condition and needs of the child and his
44 or her educational needs; and
45 (e) The availability of medical coverage for the child at reasonable
46 cost as defined in section 32-1214B, Idaho Code.

47 (5) The legislature hereby authorizes and encourages the supreme court
48 of the state of Idaho to adopt and to periodically review for modification
49 guidelines that utilize and implement the factors set forth in subsections

1 (1) through (4) of this section to create a uniform procedure for reaching
2 fair and adequate child support awards. There shall be a rebuttable pre-
3 sumption that the amount of the award which would result from the applica-
4 tion of the guidelines is the amount of child support to be awarded, unless
5 evidence is presented in a particular case that indicates that an applica-
6 tion of the guidelines would be unjust or inappropriate. If the court de-
7 termines that circumstances exist to permit a departure from the guidelines,
8 the judge making the determination shall make a written or specific finding
9 on the record that the application of the guidelines would be unjust or in-
10 appropriate in the particular case before the court. When adopting guide-
11 lines, the supreme court shall provide that in a proceeding to modify an ex-
12 isting award, children of the party requesting the modification who are born
13 or adopted after the entry of the existing order shall not be considered.

14 (6) If the court awards one (1) parent the right to claim tax benefits
15 associated with his child or children, the court order need not list every
16 applicable tax benefit. The parent who was awarded the tax benefits for
17 the child or children shall attach a copy of the court order to his income
18 tax return. The state tax commission shall recognize the award of tax ben-
19 efits with respect to the child or children as applying to the child tax
20 credit under section 63-3029L, Idaho Code, ~~the food tax credit under section~~
21 ~~63-3024A, Idaho Code,~~ and any and all other state and federal tax deductions,
22 exemptions, and credits for which the parent qualifies, unless the court
23 order specifies otherwise.

24 SECTION 7. An emergency existing therefor, which emergency is hereby
25 declared to exist, Section 1 of this act shall be in full force and effect on
26 and after June 1, 2023, and Section 2 of this act shall be in full force and
27 effect on and after July 1, 2023. Sections 3 through 6 of this act shall be in
28 full force and effect on and after January 1, 2024.