

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 489

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; AMENDING SECTION 63-3638, IDAHO CODE, TO
5 REVISE THE PROVISIONS REGARDING REVENUE-SHARING DISTRIBUTION; REPEAL-
6 ING SECTION 63-3024A, IDAHO CODE, RELATING TO FOOD INCOME TAX CREDITS
7 AND REFUNDS; REPEALING SECTION 63-3077G, IDAHO CODE, RELATING TO THE
8 EXCHANGE OF INFORMATION WITH THE DEPARTMENT OF CORRECTION; REPEALING
9 SECTION 63-3077H, IDAHO CODE, RELATING TO THE EXCHANGE OF INFORMATION
10 WITH THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 32-706,
11 IDAHO CODE, TO REMOVE A PROVISION REGARDING THE FOOD TAX CREDIT AND RE-
12 FUND; AND DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION,
13 AND PROVIDING EFFECTIVE DATES.
14

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

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

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

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

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

37 (1) An amount of money shall be distributed to the state refund account
38 sufficient to pay current refund claims. All refunds authorized under this
39 chapter by the state tax commission shall be paid through the state refund
40 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~~ Twelve and ~~five~~ nine-tenths percent (~~11.5~~12.9%) is continu-
 6 ously appropriated and shall be distributed to the revenue-sharing account,
 7 which is hereby created in the state treasury, and the moneys in the rev-
 8 enue-sharing account will be paid in installments each calendar quarter by
 9 the state tax commission ~~on and after July 1, 2020~~, 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) The revenue-sharing amount calculated by the state tax com-
 13 mission for the various cities for each quarter of fiscal year 2020
 14 shall be the base amount for current quarterly revenue distribu-
 15 tion amounts. The state tax commission shall calculate the per
 16 capita distribution for each city resulting from the previous fis-
 17 cal year's distributions.

18 (ii) If there is no change in the amount of the revenue-sharing
 19 account from the same quarter of the previous fiscal year, then the
 20 various cities shall receive the same amount received for the same
 21 quarter of the previous fiscal year.

22 (iii) If the balance of the revenue-sharing account for the cur-
 23 rent quarter is greater than the balance of the revenue-sharing
 24 account for the same quarter of the previous fiscal year, then:

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

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

45 (iv) If the balance of the revenue-sharing account for the cur-
 46 rent quarter is less than the balance of the revenue-sharing ac-
 47 count for the same quarter of the previous fiscal year, then the
 48 cities shall first receive a proportional reduction down to the
 49 base amount established in fiscal year 2020. If further reduc-
 50 tions are necessary, the cities shall receive reductions based on

1 the proportion that each city's population bears to the population
2 of all cities within the state.

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

5 (i) Fifty-nine and eight-tenths percent (59.8%) of the amount to
6 be distributed under this paragraph (b) of this subsection shall
7 be distributed as follows:

8 1. One million three hundred twenty thousand dollars
9 (\$1,320,000) annually shall be distributed one forty-fourth
10 (1/44) to each of the various counties; and

11 2. The balance of such amount shall be paid to the various
12 counties, and each county shall be entitled to an amount in
13 the proportion that the population of that county bears to
14 the population of the state; and

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

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

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

27 3. If the dollar amount of money available under this sub-
28 section (10) (b) (ii) in any quarter exceeds the amount paid
29 in the fourth quarter of calendar year 1999, each county
30 shall be entitled to a proportionately increased payment,
31 but such increase shall not exceed one hundred five percent
32 (105%) of the total payment made in the fourth quarter of
33 calendar year 1999.

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

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

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

49 (ii) If the dollar amount of money available under this subsec-
50 tion (10) (c) in any quarter does not equal the amount paid in the

1 fourth quarter of calendar year 1999, each special purpose taxing
2 district's payment shall be reduced proportionately.

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

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

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

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

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

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

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

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

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

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

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

48 (16) (a) Four and five-tenths percent (4.5%), but not less than eighty
49 million dollars (\$80,000,000), is continuously appropriated and shall

1 be distributed to the transportation expansion and congestion mitiga-
2 tion fund established in section 40-720, Idaho Code.

3 (b) Any portion of the four and five-tenths percent (4.5%) provided for
4 in paragraph (a) of this subsection that exceeds eighty million dollars
5 (\$80,000,000) is continuously appropriated and shall be apportioned
6 to local units of government for local highway projects in the same
7 percentages provided for in section 40-709(1) through (3), Idaho Code.
8 Local units of government may pool funds allocated to them pursuant to
9 this paragraph for local highway projects.

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

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

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

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

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

21 32-706. CHILD SUPPORT. (1) In a proceeding for divorce or child sup-
22 port, the court may order either or both parents owing a duty of support to a
23 child to pay an amount reasonable or necessary for his or her support and edu-
24 cation until the child is eighteen (18) years of age, without regard to mari-
25 tal misconduct, after considering all relevant factors which may include:

26 (a) The financial resources of the child;

27 (b) The financial resources, needs, and obligations of both the custo-
28 dial and noncustodial parents which ordinarily shall not include a par-
29 ent's community property interest in the financial resources or obli-
30 gations of a spouse who is not a parent of the child, unless compelling
31 reasons exist;

32 (c) The standard of living the child enjoyed during the marriage;

33 (d) The physical and emotional condition and needs of the child and his
34 or her educational needs;

35 (e) The availability of medical coverage for the child at reasonable
36 cost as defined in section 32-1214B, Idaho Code; and

37 (f) The actual tax benefit recognized by the party claiming the federal
38 child dependency exemption.

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

45 (3) All child support orders shall notify the obligor that the order
46 will be enforced by income withholding pursuant to chapter 12, title 32,

1 Idaho Code. Failure to include this provision does not affect the validity
2 of the support order. The court shall require that the social security num-
3 bers of both the obligor and obligee be included in the order or decree.

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

9 (a) The financial resources of the child;

10 (b) The financial resources of the minor parent;

11 (c) The financial resources, needs and obligations of the parent of the
12 minor parent;

13 (d) The physical and emotional condition and needs of the child and his
14 or her educational needs; and

15 (e) The availability of medical coverage for the child at reasonable
16 cost as defined in section 32-1214B, Idaho Code.

17 (5) The legislature hereby authorizes and encourages the supreme court
18 of the state of Idaho to adopt and to periodically review for modification
19 guidelines that utilize and implement the factors set forth in subsections
20 (1) through (4) of this section to create a uniform procedure for reaching
21 fair and adequate child support awards. There shall be a rebuttable pre-
22 sumption that the amount of the award which would result from the applica-
23 tion of the guidelines is the amount of child support to be awarded, unless
24 evidence is presented in a particular case that indicates that an applica-
25 tion of the guidelines would be unjust or inappropriate. If the court de-
26 termines that circumstances exist to permit a departure from the guidelines,
27 the judge making the determination shall make a written or specific finding
28 on the record that the application of the guidelines would be unjust or in-
29 appropriate in the particular case before the court. When adopting guide-
30 lines, the supreme court shall provide that in a proceeding to modify an ex-
31 isting award, children of the party requesting the modification who are born
32 or adopted after the entry of the existing order shall not be considered.

33 (6) If the court awards one (1) parent the right to claim tax benefits
34 associated with his child or children, the court order need not list every
35 applicable tax benefit. The parent who was awarded the tax benefits for
36 the child or children shall attach a copy of the court order to his income
37 tax return. The state tax commission shall recognize the award of tax ben-
38 efits with respect to the child or children as applying to the child tax
39 credit under section 63-3029L, Idaho Code, ~~the food tax credit under section~~
40 ~~63-3024A, Idaho Code,~~ and any and all other state and federal tax deductions,
41 exemptions, and credits for which the parent qualifies, unless the court
42 order specifies otherwise.

43 SECTION 7. An emergency existing therefor, which emergency is hereby
44 declared to exist, Sections 3, 4, 5, and 6 of this act shall be in full force
45 and effect on and after passage and approval, and retroactively to January 1,
46 2022; Section 1 of this act shall be in full force and effect on and after June
47 1, 2022; and Section 2 of this act shall be in full force and effect on and
48 after July 1, 2022.