

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 498

BY RUBEL

AN ACT

1 RELATING TO SALES TAX; AMENDING SECTION 63-3620F, IDAHO CODE, TO REVISE THE
2 DISTRIBUTION OF TAX COLLECTED BY MARKETPLACE FACILITATORS AND OUT-OF-
3 STATE RETAILERS; AMENDING SECTION 57-811, IDAHO CODE, TO REVISE PRO-
4 VISIONS REGARDING THE TAX RELIEF FUND; AMENDING SECTION 63-3638, IDAHO
5 CODE, TO REVISE PROVISIONS REGARDING THE DISTRIBUTION OF SALES AND USE
6 TAX; AND DECLARING AN EMERGENCY.
7

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

9 SECTION 1. That Section 63-3620F, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 63-3620F. DISTRIBUTION OF TAX COLLECTED BY MARKETPLACE FACILITATORS
12 AND OUT-OF-STATE RETAILERS. ~~(1)~~ State sales and use taxes collected by
13 retailers without a physical presence in Idaho, as described in section
14 63-3611(3)(h), Idaho Code, and state sales and use taxes collected on trans-
15 actions facilitated for third-party sellers by marketplace facilitators, as
16 described in section 63-3605E, Idaho Code, shall be distributed as provided
17 in this section 63-3638, Idaho Code.

18 ~~(2) From June 1, 2019, through June 30, 2024, all state sales and use~~
19 ~~taxes described in subsection (1) of this section shall be distributed by the~~
20 ~~state tax commission as follows:~~

21 ~~(a) An amount of money shall be distributed to the state refund account~~
22 ~~sufficient to pay current refund claims under this section. All refunds~~
23 ~~authorized for payment by the state tax commission shall be paid through~~
24 ~~the state refund account and those moneys are continuously appropri-~~
25 ~~ated; and~~

26 ~~(b) All remaining funds received pursuant to this section shall be~~
27 ~~distributed to the tax relief fund established in section 57-811, Idaho~~
28 ~~Code.~~

29 ~~(3) On and after July 1, 2024, all state sales and use taxes described in~~
30 ~~subsection (1) of this section shall be distributed by the state tax commis-~~
31 ~~sion as follows:~~

32 ~~(a) An amount of money shall be distributed to the state refund account~~
33 ~~sufficient to pay current refund claims under this section. All refunds~~
34 ~~authorized for payment by the state tax commission shall be paid through~~
35 ~~the state refund account, and those moneys are continuously appropri-~~
36 ~~ated; and~~

37 ~~(b) The remaining funds shall be distributed through the distribu-~~
38 ~~tion formula set forth for other sales and use tax revenue in section~~
39 ~~63-3638, Idaho Code, except that the remainder after distribution shall~~
40 ~~not be paid to the general fund pursuant to section 63-3638(15), Idaho~~
41 ~~Code, but shall instead be paid to the tax relief fund established in~~
42 ~~section 57-811, Idaho Code.~~

1 ~~(4) Marketplace facilitators must obtain a separate seller's permit~~
2 ~~and collect and remit under that separate permit for state sales and use~~
3 ~~taxes collected on transactions facilitated for third-party sellers.~~

4 SECTION 2. That Section 57-811, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 57-811. TAX RELIEF FUND. (1) There is hereby created in the state trea-
7 sury the tax relief fund to which shall be credited all moneys remitted from
8 sections ~~63-3620F~~ and 63-3638, Idaho Code, from federal grants, donations,
9 or any other source. Moneys in the fund are intended to fund future tax re-
10 lief statutes enacted by the legislature and may be expended pursuant to ap-
11 propriation. All interest earned on the investment of idle moneys in the
12 fund shall be returned to the fund.

13 (2) On July 15, 2021, the state controller shall transfer one hundred
14 eighty million dollars (\$180,000,000) from the tax relief fund to the 2021
15 Idaho tax rebate fund.

16 (3) For fiscal year 2022 and each fiscal year thereafter, the state con-
17 troller shall transfer one hundred ten million dollars (\$110,000,000) from
18 the tax relief fund to the general fund.

19 SECTION 3. That Section 63-3638, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this
22 chapter, except as may otherwise be required in sections 63-3203, ~~63-3620F~~,
23 and 63-3709, Idaho Code, and except as provided in subsection (16) of this
24 section, shall be distributed by the state tax commission as follows:

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

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

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

35 (4) An amount equal to the sum required to be certified by the chair-
36 man of the Idaho housing and finance association to the state tax commis-
37 sion pursuant to section 67-6211, Idaho Code, in each year is continuously
38 appropriated and shall be paid to any capital reserve fund established by
39 the Idaho housing and finance association pursuant to section 67-6211, Idaho
40 Code. Such amounts, if any, as may be appropriated hereunder to the capital
41 reserve fund of the Idaho housing and finance association shall be repaid for
42 distribution under the provisions of this section, subject to the provisions
43 of section 67-6215, Idaho Code, by the Idaho housing and finance associa-
44 tion, as soon as possible, from any moneys available therefor and in excess
45 of the amounts the association determines will keep it self-supporting.

46 (5) An amount equal to the sum required by the provisions of sections
47 63-709 and 63-717, Idaho Code, after allowance for the amount appropriated

1 by section 63-718(3), Idaho Code, is continuously appropriated and shall be
2 paid as provided by sections 63-709 and 63-717, Idaho Code.

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

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

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

27 (9) One dollar (\$1.00) on each application for certificate of title
28 or initial application for registration of a motor vehicle, snowmobile,
29 all-terrain vehicle or other vehicle processed by the county assessor or the
30 Idaho transportation department, excepting those applications in which any
31 sales or use taxes due have been previously collected by a retailer, shall be
32 a fee for the services of the assessor of the county or the Idaho transporta-
33 tion department in collecting such taxes and shall be paid into the current
34 expense fund of the county or state highway account established in section
35 40-702, Idaho Code.

36 (10) Eleven and five-tenths percent (11.5%) is continuously appro-
37 priated and shall be distributed to the revenue-sharing account, which is
38 hereby created in the state treasury, and the moneys in the revenue-sharing
39 account will be paid in installments each calendar quarter by the state tax
40 commission on and after July 1, 2020, as follows:

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

43 (i) The revenue-sharing amount calculated by the state tax com-
44 mission for the various cities for each quarter of fiscal year 2020
45 shall be the base amount for current quarterly revenue distribu-
46 tion amounts. The state tax commission shall calculate the per
47 capita distribution for each city resulting from the previous fis-
48 cal year's distributions.

49 (ii) If there is no change in the amount of the revenue-sharing
50 account from the same quarter of the previous fiscal year, then the

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

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

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

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

26 (iv) If the balance of the revenue-sharing account for the cur-
 27 rent quarter is less than the balance of the revenue-sharing ac-
 28 count for the same quarter of the previous fiscal year, then the
 29 cities shall first receive a proportional reduction down to the
 30 base amount established in fiscal year 2020. If further reduc-
 31 tions are necessary, the cities shall receive reductions based on
 32 the proportion that each city's population bears to the population
 33 of all cities within the state.

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

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

39 1. One million three hundred twenty thousand dollars
 40 (\$1,320,000) annually shall be distributed one forty-fourth
 41 (1/44) to each of the various counties; and

42 2. The balance of such amount shall be paid to the various
 43 counties, and each county shall be entitled to an amount in
 44 the proportion that the population of that county bears to
 45 the population of the state; and

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

49 1. Each county that received a payment under the provisions
 50 of section 63-3638(e), Idaho Code, as that subsection ex-

1 isted immediately prior to July 1, 2000, during the fourth
2 quarter of calendar year 1999, shall be entitled to a like
3 amount during succeeding calendar quarters.

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

8 3. If the dollar amount of money available under this sub-
9 section (10) (b) (ii) in any quarter exceeds the amount paid
10 in the fourth quarter of calendar year 1999, each county
11 shall be entitled to a proportionately increased payment,
12 but such increase shall not exceed one hundred five percent
13 (105%) of the total payment made in the fourth quarter of
14 calendar year 1999.

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

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

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

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

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

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

1 (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.

2
3
4
5
6
7 (vi) Taxing districts formed after January 1, 2001, are not entitled to a payment under the provisions of this paragraph (c) of this subsection.

8
9
10 (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
12
13 (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.

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49

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

4 (13) Amounts calculated in accordance with section 63-602KK(4), Idaho
5 Code, for annual distribution to counties and other taxing districts for
6 replacement of property tax on personal property tax exemptions pursuant
7 to section 63-602KK(2), Idaho Code, which amounts are continuously ap-
8 propriated unless the legislature enacts a different appropriation for a
9 particular fiscal year. For purposes of the limitation provided by section
10 63-802, Idaho Code, moneys received pursuant to this section as property tax
11 replacement for property exempt from taxation pursuant to section 63-602KK,
12 Idaho Code, shall be treated as property tax revenues. If taxing districts
13 are consolidated, the resulting district is entitled to an amount equal to
14 the sum of the amounts that were received in the last calendar year by each
15 district pursuant to this subsection prior to the consolidation. If a taxing
16 district or revenue allocation area annexes territory, the distribution of
17 moneys received pursuant to this subsection shall be unaffected. Taxing
18 districts and revenue allocation areas formed after January 1, 2022, are not
19 entitled to a payment under the provisions of this subsection.

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

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

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

34 (b) Any portion of the four and five-tenths percent (4.5%) provided for
35 in paragraph (a) of this subsection that exceeds eighty million dollars
36 (\$80,000,000) is continuously appropriated and shall be apportioned
37 to local units of government for local highway projects in the same
38 percentages provided for in section 40-709(1) through (3), Idaho Code.
39 Local units of government may pool funds allocated to them pursuant to
40 this paragraph for local highway projects.

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

44 SECTION 4. An emergency existing therefor, which emergency is hereby
45 declared to exist, this act shall be in full force and effect on and after its
46 passage and approval.