

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 709

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO TAXATION; AMENDING SECTION 63-3620F, IDAHO CODE, TO REVISE PRO-  
2 VISIONS REGARDING THE DISTRIBUTION OF TAXES COLLECTED BY MARKETPLACE  
3 FACILITATORS AND OUT-OF-STATE RETAILERS; AMENDING CHAPTER 8, TITLE  
4 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-810, IDAHO CODE, TO  
5 ESTABLISH PROVISIONS REGARDING THE COUNTY AND CITY PROPERTY TAX RE-  
6 LIEF FUND; AMENDING SECTION 63-802, IDAHO CODE, TO REVISE PROVISIONS  
7 REGARDING LIMITATIONS ON A CITY OR COUNTY'S BUDGET; AND DECLARING AN  
8 EMERGENCY.  
9

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

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

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

20 (2) From June 1, 2019, through June 30, 2024~~3~~, all state sales and use  
21 taxes described in subsection (1) of this section shall be distributed by the  
22 state tax commission as follows:

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

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

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

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

39 (b) Eleven and five-tenths percent (11.5%) of the taxes described in  
40 subsection (1) of this section shall be distributed to the county and  
41 city property tax relief fund established in section 57-810, Idaho  
42 Code; and

1       (c) The remaining funds shall be distributed ~~through the distribu-~~  
2 ~~tion formula set forth for other sales and use tax revenue in section~~  
3 ~~63-3638, Idaho Code, except that the remainder after distribution shall~~  
4 ~~not be paid to the general fund pursuant to section 63-3638(15), Idaho~~  
5 ~~Code, but shall instead be paid to the tax relief fund established in~~  
6 section 57-811, Idaho Code.

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

10       SECTION 2. That Chapter 8, Title 57, Idaho Code, be, and the same is  
11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
12 ignated as Section 57-810, Idaho Code, and to read as follows:

13       57-810. COUNTY AND CITY PROPERTY TAX RELIEF FUND. (1) There is hereby  
14 created in the state treasury the county and city property tax relief fund  
15 to which shall be credited all moneys remitted from section 63-3620F(3) (b),  
16 Idaho Code, or any other source. Moneys in the fund are intended to offset  
17 property tax increases for county and city governments. Moneys in the fund  
18 are continuously appropriated and shall be distributed as provided in this  
19 section:

20       (a) Fifty percent (50%) of the total amount available in the fund shall  
21 be distributed to each of the forty-four (44) counties for property tax  
22 relief. Such moneys shall be distributed in the proportion that the  
23 sum of each county's 2021 approved property tax budget portion of the  
24 county's budget in the county's current expense fund, county justice  
25 fund, and county district court fund bears to the total amount of ap-  
26 proved property tax budget portion of budgets in all counties' current  
27 expense funds, county justice funds, and county district court funds  
28 in tax year 2021. The state tax commission shall calculate the propor-  
29 tional amount for each county. Counties are encouraged to first use  
30 moneys from the fund to pay off any bonded indebtedness.

31       (b) Fifty percent (50%) of the total amount available in the fund shall  
32 be distributed to each of the various cities for property tax relief.  
33 Such moneys shall be distributed in the proportion that each city's 2021  
34 approved property tax portion of its budget bears to the total amount of  
35 approved property tax portions of their budgets in tax year 2021. The  
36 state tax commission shall calculate the proportional amount for each  
37 city. Cities are encouraged to first use moneys from the fund to pay off  
38 any bonded indebtedness.

39       (2) (a) After the close of fiscal year 2022, the state controller shall  
40 determine and notify the state tax commission of any excess cash bal-  
41 ance in the general fund by no later than the third Monday in July. The  
42 general fund excess cash balance shall be determined by deducting from  
43 the ending balance, according to the legislative record, any appropri-  
44 ations to be carried over into the next fiscal year, all encumbrances  
45 approved by the division of financial management, and an amount suffi-  
46 cient to cover any reappropriations authorized by the legislature. Any  
47 moneys remaining after all deductions shall be the general fund excess  
48 cash balance.

1 (b) On July 1, 2022, or as soon thereafter as practicable, the state  
 2 controller shall transfer up to forty million dollars (\$40,000,000) of  
 3 the general fund excess cash balance to the county and city property tax  
 4 relief fund.

5 (c) Any cash balance in the county and city property tax relief fund at  
 6 the beginning of state fiscal year 2023 may be distributed by the state  
 7 tax commission pursuant to subsection (1) of this section.

8 (3) (a) Cities formed on and after July 1, 2022, are not eligible for  
 9 moneys from the county and city property tax relief fund.

10 (b) Moneys from the fund that would otherwise be payable to a city that  
 11 is dissolved on or after July 1, 2022, shall revert and be divided among  
 12 the rest of the cities pursuant to subsection (1) (b) of this section.

13 SECTION 3. That Section 63-802, Idaho Code, be, and the same is hereby  
 14 amended to read as follows:

15 63-802. LIMITATION ON BUDGET REQUESTS -- LIMITATION ON TAX CHARGES --  
 16 EXCEPTIONS. (1) Except as otherwise provided in this section, no taxing dis-  
 17 trict shall certify a budget request for an amount of property tax revenues  
 18 to finance an annual budget that exceeds the maximum sum permitted under this  
 19 section:

20 (a) (i) The highest dollar amount of property taxes certified for  
 21 its annual budget for any one (1) of the three (3) tax years preced-  
 22 ing the current tax year, which amount may be increased by a growth  
 23 factor of not to exceed three percent (3%) plus the amount of rev-  
 24 enue calculated as described in this subsection. The taxing dis-  
 25 trict shall determine what portion of the three percent (3%) in-  
 26 crease permitted under this subparagraph that it requires and then  
 27 calculate a preliminary levy rate based on the percent chosen. In  
 28 calculating the preliminary levy rate, the most current taxable  
 29 market value shall be used, except that for taxable market values  
 30 of centrally assessed operating property, the prior year's valua-  
 31 tion may be used instead of the current year's taxable market val-  
 32 ues. The preliminary levy rate shall be multiplied by the value  
 33 shown on the new construction roll compiled pursuant to section  
 34 63-301A, Idaho Code, and by ninety percent (90%) of the value of  
 35 annexation during the previous calendar year, as certified by the  
 36 state tax commission for taxable market values of operating prop-  
 37 erty of public utilities and by the county assessor; except for a  
 38 fire protection district annexing property prior to July 1, 2021,  
 39 pursuant to section 31-1429, Idaho Code, the new levy rate shall be  
 40 multiplied by one hundred percent (100%) of the value of any such  
 41 property annexed prior to July 1, 2021.

42 (ii) The total budget increase calculated under this paragraph  
 43 must not exceed eight percent (8%), except that any distribution  
 44 of funds to a taxing district as a result of the termination of a  
 45 revenue allocation area of an urban renewal district pursuant to  
 46 section 50-2909(4), Idaho Code, shall not be subject to such limi-  
 47 tation.

48 (iii) Following the first year in which a fire protection district  
 49 has annexed city property pursuant to section 31-1429, Idaho Code,

1           the city shall subtract an amount equal to the moneys spent on fire  
2           protection services during the last full year the city provided  
3           fire protection services to its residents from its budget limita-  
4           tion under this section.

5           (b) If the taxing district has not imposed a levy for three (3) or more  
6           years, the highest dollar amount of property taxes certified for its an-  
7           nual budget for the purpose of paragraph (a) (i) of this subsection shall  
8           be the dollar amount of property taxes certified for its annual budget  
9           during the last year in which a levy was made.

10          (c) The dollar amount of the actual budget request may be substituted  
11          for the amount in paragraph (a) of this subsection if the taxing dis-  
12          trict is newly created, except as may be provided in paragraph (i) of  
13          this subsection.

14          (d) This section does not apply to school district levies imposed in  
15          section 33-802, Idaho Code.

16           (e) (i) In the case of a nonschool district for which less than the  
17           maximum allowable increase in the dollar amount of property taxes  
18           is certified for annual budget purposes in any one (1) year, such a  
19           district may, in any following year, recover the forgone increase  
20           by certifying, in addition to any increase otherwise allowed, any  
21           or all of the increase originally forgone. Provided however, that  
22           prior to budgeting any forgone increase, the district must provide  
23           notice of its intent to do so, hold a public hearing, ~~which that~~  
24           may be in conjunction with its annual budget hearing, and certify  
25           by resolution the amount of forgone increase to be budgeted and the  
26           specific purpose for which the forgone increase is being budgeted.  
27           Upon adoption of the resolution, the clerk of the district shall  
28           file a copy of the resolution with the county clerk and the state  
29           tax commission. Said additional amount shall be included in fu-  
30           ture calculations for increases as allowed, except as provided in  
31           subparagraph (iii) of this paragraph.

32           (ii) If the forgone increase is budgeted for the purpose of main-  
33           tenance and operations, the rate of recovering the reserved for-  
34           gone moneys may increase the taxing district's budget by no more  
35           than one percent (1%) per year. Provided, however, this cap shall  
36           not apply to a taxing district that budgets its reserved forgone  
37           moneys for the purpose of maintenance and operations as long as it  
38           does not budget, or reserve as forgone, any portion of the three  
39           percent (3%) increase otherwise allowed and does not budget any  
40           new construction or annexation increases.

41           (iii) If the forgone increase is budgeted for a capital project or  
42           projects, the rate of recovering the reserved forgone moneys may  
43           not exceed three percent (3%) of the taxing district's budget for  
44           the year in which the forgone increase is budgeted. Forgone moneys  
45           budgeted for a capital project must be deducted from the taxing  
46           district's forgone balance in the year in which it is budgeted.  
47           Upon completion of such a capital project, the taxing district  
48           shall certify such completion to the state tax commission and  
49           county clerk. If, upon certification, the state tax commission  
50           finds that the taxing district included forgone moneys for a capi-

1           tal project in calculating the increase permitted under paragraph  
2           (a) of this subsection, the state tax commission shall direct the  
3           taxing district to reduce its property tax budget for any year  
4           in which the forgone moneys were used to calculate a budget in-  
5           crease, in an amount equal to the forgone moneys budgeted plus any  
6           increases attributed to the forgone moneys improperly included in  
7           the taxing district's property tax budget. For the purpose of this  
8           paragraph, a capital project includes:

- 9           1. The construction, expansion, renovation, or replacement  
10           of public facilities, including the acquisition of land and  
11           other site improvements;
- 12           2. The construction, expansion, or reconstruction of public  
13           works improvements, including roads, bridges, water sys-  
14           tems, sewer systems, and broadband systems; and
- 15           3. The purchase of equipment with a useful life of ten (10)  
16           years or more.

17           (f) If a taxing district elects to budget less than the maximum allow-  
18           able increase in the dollar amount of property taxes, the taxing dis-  
19           trict may reserve the right to recover all or any portion of that year's  
20           forgone increase in a subsequent year by adoption of a resolution spec-  
21           ifying the dollar amount of property taxes being reserved. Otherwise,  
22           that year's forgone increase may not be recovered under paragraph (e) of  
23           this subsection. The district must provide notice of its intent to do  
24           so and hold a public hearing, which may be in conjunction with its an-  
25           nual budget hearing if applicable. The resolution to reserve the right  
26           to recover the forgone increase for that year shall be adopted at the an-  
27           nual budget hearing of the taxing district if the district has a budget  
28           hearing requirement.

29           (g) In the case of cities, if the immediately preceding year's levy sub-  
30           ject to the limitation provided by this section is less than 0.004, the  
31           city may increase its budget by an amount not to exceed the difference  
32           between 0.004 and the actual prior year's levy multiplied by the prior  
33           year's market value for assessment purposes. The additional amount  
34           must be approved by sixty percent (60%) of the voters voting on the ques-  
35           tion at an election called for that purpose and held on the date in May or  
36           November provided by law and may be included in the annual budget of the  
37           city for purposes of this section.

38           (h) A taxing district may submit to the electors within the district  
39           the question of whether the budget from property tax revenues may be  
40           increased beyond the amount authorized in this section, but not beyond  
41           the levy authorized by statute. The additional amount must be approved  
42           by sixty-six and two-thirds percent (66 2/3%) or more of the voters  
43           voting on the question at an election called for that purpose and held  
44           on the May or November dates provided by section 34-106, Idaho Code.  
45           If approved by the required minimum sixty-six and two-thirds percent  
46           (66 2/3%) of the voters voting at the election, the new budget amount  
47           shall be the base budget for the purposes of this section.

48           (i) When a nonschool district consolidates with another nonschool  
49           district or dissolves and a new district performing similar governmen-  
50           tal functions as the dissolved district forms with the same boundaries

1 within three (3) years, the maximum amount of a budget of the district  
2 from property tax revenues shall not be greater than the sum of the  
3 amounts that would have been authorized by this section for the district  
4 itself or for the districts that were consolidated or dissolved and in-  
5 corporated into a new district.

6 (j) This section does not apply to cooperative service agency levies  
7 imposed in sections 33-317 and 33-317A, Idaho Code.

8 (k) The amount of money received in the twelve (12) months immediately  
9 preceding June 30 of the current tax year as a result of distributions of  
10 the tax provided in section 63-3502B(2), Idaho Code.

11 (2) In the case of fire districts, during the year immediately follow-  
12 ing the election of a public utility or public utilities to consent to be pro-  
13 vided fire protection pursuant to section 31-1425, Idaho Code, the maximum  
14 amount of property tax revenues permitted in subsection (1) of this section  
15 may be increased by an amount equal to the current year's taxable value of the  
16 consenting public utility or public utilities multiplied by that portion of  
17 the prior year's levy subject to the limitation provided by subsection (1) of  
18 this section.

19 (3) No board of county commissioners shall set a levy, nor shall the  
20 state tax commission approve a levy for annual budget purposes, which ex-  
21 ceeds the limitation imposed in subsection (1) of this section unless au-  
22 thority to exceed such limitation has been approved by a majority of the tax-  
23 ing district's electors voting on the question at an election called for that  
24 purpose and held pursuant to section 34-106, Idaho Code, provided however,  
25 that such voter approval shall be for a period of not to exceed two (2) years.

26 (4) The amount of property tax revenues to finance an annual budget does  
27 not include revenues from nonproperty tax sources and does not include rev-  
28 enue from levies for the payment of judicially confirmed obligations pur-  
29 suant to sections 63-1315 and 63-1316, Idaho Code, and revenue from levies  
30 that are voter-approved for bonds, override levies or supplemental levies,  
31 plant facilities reserve fund levies, school emergency fund levies, or for  
32 levies applicable to newly annexed property or for levies applicable to new  
33 construction as evidenced by the value of property subject to the occupancy  
34 tax pursuant to section 63-317, Idaho Code, for the preceding tax year. The  
35 amount of property tax revenues to finance an annual budget does not include  
36 any property taxes that were collected and refunded on property that is ex-  
37 empt from taxation, pursuant to section 63-1305C, Idaho Code.

38 (5) The amount of property tax revenues to finance an annual budget  
39 shall include moneys received as recovery of property tax for a revoked pro-  
40 visional property tax exemption under section 63-1305C, Idaho Code.

41 (6) For each county in tax year 2022, for the purpose of determining the  
42 maximum amount of property tax revenues to finance an annual budget pursuant  
43 to this section, the dollar amount of property taxes certified for its an-  
44 annual budget for tax years 2019, 2020, and 2021 shall each be reduced by fifty  
45 percent (50%) of the amount of money received by the county pursuant to the  
46 provisions of section 57-810, Idaho Code, during the twelve (12) month pe-  
47 riod ending June 30 of the current year. The reduction so required shall  
48 be from the sum of any or all of the following funds: the current expense  
49 fund authorized pursuant to section 63-805(1), Idaho Code, the county jus-  
50 tice fund authorized pursuant to section 63-805(2), Idaho Code, and the dis-

1 trict court fund authorized pursuant to section 31-867, Idaho Code. Begin-  
2 ning in tax year 2022, the reduced budget amount shall be the base budget for  
3 the purposes of this section. The state tax commission shall certify the to-  
4 tal property tax levy amounts for 2019, 2020, and 2021 and the proportional  
5 reductions to each county on the first Monday in August. Moneys received  
6 pursuant to the provisions of section 57-810, Idaho Code, shall be treated as  
7 property tax revenue for the purposes of this section.

8 (7) For each city in tax year 2022, for the purpose of determining the  
9 maximum amount of property tax revenues to finance an annual budget pursuant  
10 to this section, the dollar amount of property taxes certified for its annual  
11 budget for tax years 2019, 2020, and 2021 shall each be reduced by fifty per-  
12 cent (50%) of the amount of money received by the city pursuant to the provi-  
13 sions of section 57-810, Idaho Code, during the twelve (12) month period end-  
14 ing June 30 of the current year. The reduction shall be from the city's gen-  
15 eral fund. Beginning in tax year 2022, the reduced budget amount shall be the  
16 base budget for the purposes of this section. The state tax commission shall  
17 certify the total property tax levy amounts for 2019, 2020, and 2021 and the  
18 proportional reductions to each city on the first Monday in August. Moneys  
19 received pursuant to the provisions of section 57-810, Idaho Code, shall be  
20 treated as property tax revenue for the purposes of this section.

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