

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 131

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

1 RELATING TO IDAHO COMMEMORATIVE MEDALLIONS; TO PROVIDE  
2 LEGISLATIVE INTENT; AMENDING SECTION 40-702, IDAHO CODE, TO  
3 PROVIDE THAT THE STATE HIGHWAY ACCOUNT MAY CONSIST OF THE  
4 PROCEEDS OF THE SALE OF TRANSPORTATION IDAHO COMMEMORATIVE  
5 MEDALLIONS; AMENDING SECTION 63-3022, IDAHO CODE, TO DEDUCT ANY  
6 AMOUNTS INCLUDED IN GROSS INCOME; AMENDING SECTION 63-3622PP,  
7 IDAHO CODE, TO PROVIDE THAT ALL MEDALLIONS SOLD BY THE STATE  
8 TREASURER ARE EXEMPT FROM THE SALES AND USE TAX; AMENDING  
9 SECTION 67-1223, IDAHO CODE, TO PROVIDE FOR A GOLD AND SILVER  
10 COMMEMORATIVE MEDALLION TO BE SOLD AND TO PROVIDE FOR WHAT  
11 PROCEEDS FROM THE SALE OF MEDALLIONS SHALL BE USED; AND  
12 DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION AND  
13 PROVIDING EFFECTIVE DATES.  
14

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

16 SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to provide a  
17 voluntary source of funding for Idahoans to assist with highway construction, maintenance and  
18 other needed transportation projects.

19 SECTION 2. That Section 40-702, Idaho Code, be, and the same is hereby amended to  
20 read as follows:

21 40-702. STATE HIGHWAY ACCOUNT – ESTABLISHMENT. For the purpose of  
22 carrying out the provisions of this title, there is established in the dedicated fund of the state  
23 treasury an account to be known as the state highway account, which account shall include:

- 24 (1) All moneys received by the state treasurer for deposit to the state highway account.
- 25 (2) All fines, penalties and forfeitures incurred and collected for violations of the  
26 provisions of this title, except as otherwise provided.
- 27 (3) All donations to the state from any source for the construction and improvement of  
28 highways.
- 29 (4) All moneys received from local boards under joint contracts for the construction of  
30 state highways.
- 31 (5) All federal surface transportation funds received from the United States government,  
32 including, but not limited to, funds received pursuant to chapter 1 of title 23, United States  
33 Code, for the national highway systems program, the surface transportation program, the  
34 highway bridge program, the minimum guarantee program, the federal lands highways program  
35 and other similar programs under successor laws.
- 36 (6) Other moneys which may be provided by law for the construction and improvement  
37 of state highways.

1 (7) Interest earned on the investment of idle moneys in the state highway account shall  
2 be paid to the state highway account.

3 (8) Moneys received from the sale of the transportation Idaho commemorative medallion  
4 pursuant to section 67-1223, Idaho Code.

5 SECTION 3. That Section 63-3022, Idaho Code, be, and the same is hereby amended to  
6 read as follows:

7 63-3022. ADJUSTMENTS TO TAXABLE INCOME. The additions and subtractions  
8 set forth in this section, and in sections 63-3022A through 63-3022Q, Idaho Code, are to be  
9 applied to the extent allowed in computing Idaho taxable income:

10 (a) Add any state and local taxes, as defined in section 164 of the Internal Revenue Code  
11 and, measured by net income, paid or accrued during the taxable year adjusted for state or local  
12 tax refunds used in arriving at taxable income.

13 (b) Add the net operating loss deduction used in arriving at taxable income.

14 (c) (1) A net operating loss for any taxable year commencing on and after January  
15 1, 2000, shall be a net operating loss carryback not to exceed a total of one hundred  
16 thousand dollars (\$100,000) to the two (2) immediately preceding taxable years. Any  
17 portion of the net operating loss not subtracted in the two (2) preceding years may be  
18 subtracted in the next twenty (20) years succeeding the taxable year in which the loss  
19 arises in order until exhausted. The sum of the deductions may not exceed the amount  
20 of the net operating loss deduction incurred. At the election of the taxpayer, the two (2)  
21 year carryback may be foregone and the loss subtracted from income received in taxable  
22 years arising in the next twenty (20) years succeeding the taxable year in which the loss  
23 arises in order until exhausted. The election shall be made as under section 172(b)(3)  
24 of the Internal Revenue Code. An election under this subsection must be in the manner  
25 prescribed in the rules of the state tax commission and once made is irrevocable for the  
26 year in which it is made. The term "income" as used in this subsection (c) means Idaho  
27 taxable income as defined in this chapter as modified by section 63-3021(b)(2), (3) and  
28 (4), Idaho Code.

29 (2) Net operating losses incurred by a corporation during a year in which such  
30 corporation did not transact business in Idaho or was not included in a group of  
31 corporations combined under subsection (t) of section 63-3027, Idaho Code, may not  
32 be subtracted. However, if at least one (1) corporation within a group of corporations  
33 combined under subsection (t) of section 63-3027, Idaho Code, was transacting business  
34 in Idaho during the taxable year in which the loss was incurred, then the net operating  
35 loss may be subtracted. Net operating losses incurred by a person, other than a  
36 corporation, in activities not taxable by Idaho may not be subtracted.

37 (d) In the case of a corporation, add the amount deducted under the provisions of  
38 sections 243(a) and (c), 244, 245 and 246A of the Internal Revenue Code (relating to dividends  
39 received by corporations) as limited by section 246(b)(1) of said code.

40 (e) In the case of a corporation, subtract an amount determined under section 78 of the  
41 Internal Revenue Code to be taxable as dividends.

42 (f) Subtract the amount of any income received or accrued during the taxable year which  
43 is exempt from taxation by this state, under the provisions of any other law of this state or a  
44 law of the United States, if not previously subtracted in arriving at taxable income.

1 (g) For the purpose of determining the Idaho taxable income of the beneficiary of a trust  
2 or of an estate:

3 (1) Distributable net income as defined for federal tax purposes shall be corrected for the  
4 other adjustments required by this section.

5 (2) Net operating losses attributable to a beneficiary of a trust or estate under section 642  
6 of the Internal Revenue Code shall be a deduction for the beneficiary to the extent that  
7 income from the trust or estate would be attributable to this state under the provisions of  
8 this chapter.

9 (h) In the case of an individual who is on active duty as a full-time officer, enlistee  
10 or draftee, with the armed forces of the United States, which full-time duty is or will be  
11 continuous and uninterrupted for one hundred twenty (120) consecutive days or more, deduct  
12 compensation paid by the armed forces of the United States for services performed outside this  
13 state. The deduction is allowed only to the extent such income is included in taxable income.

14 (i) In the case of a corporation, including any corporation included in a group of  
15 corporations combined under subsection (t) of section 63-3027, Idaho Code, add any capital  
16 loss deducted which loss was incurred during any year in which such corporation did not  
17 transact business in Idaho. However, do not add any capital loss deducted if a corporation,  
18 including any corporation in a group of corporations combined under subsection (t) of section  
19 63-3027, Idaho Code, was transacting business in Idaho during the taxable year in which  
20 the loss was incurred. In the case of persons, other than corporations, add any capital loss  
21 deducted which was incurred in activities not taxable by Idaho at the time such loss was  
22 incurred. In computing the income taxable to an S corporation or partnership under this  
23 section, deduction shall not be allowed for a carryover or carryback of a net operating loss  
24 provided for in subsection (c) of this section or a capital loss provided for in section 1212 of  
25 the Internal Revenue Code.

26 (j) In the case of an individual, there shall be allowed as a deduction from gross income  
27 either (1) or (2) at the option of the taxpayer:

28 (1) The standard deduction as defined in section 63, Internal Revenue Code.

29 (2) Itemized deductions as defined in section 63 of the Internal Revenue Code except  
30 state or local taxes measured by net income and general sales taxes as either is defined in  
31 section 164 of the Internal Revenue Code.

32 (k) Add the taxable amount of any lump sum distribution excluded from gross income  
33 for federal income tax purposes under the ten (10) year averaging method. The taxable amount  
34 will include the ordinary income portion and the amount eligible for the capital gain election.

35 (l) Deduct any amounts included in gross income under the provisions of section 86 of  
36 the Internal Revenue Code relating to certain social security and railroad benefits.

37 (m) In the case of a self-employed individual, deduct the actual cost of premiums paid  
38 to secure worker's compensation insurance for coverage in Idaho, if such cost has not been  
39 deducted in arriving at taxable income.

40 (n) In the case of an individual, deduct the amount contributed to a college savings  
41 program pursuant to chapter 54, title 33, Idaho Code, but not more than four thousand dollars  
42 (\$4,000) per tax year. If the contribution is made on or before April 15, 2001, it may be  
43 deducted for tax year 2000 and an individual can make another contribution and claim the  
44 deduction according to the limits provided in this subsection during 2001 for tax year 2001, as  
45 long as the contribution is made on or before December 31, 2001.

1 (o) In the case of an individual, add the amount of a nonqualified withdrawal from an  
 2 individual trust account or savings account established pursuant to chapter 54, title 33, Idaho  
 3 Code, less any amount of such nonqualified withdrawal included in the individual's federal  
 4 gross income pursuant to section 529 of the Internal Revenue Code.

5 (p) In the case of an individual, add the amount of a withdrawal from an individual trust  
 6 account or savings account established pursuant to chapter 54, title 33, Idaho Code, transferred  
 7 to a qualified tuition program, as defined in section 529 of the Internal Revenue Code, that is  
 8 operated by a state other than Idaho. The addition provided in this subsection is limited to the  
 9 amount of the total contributions to the Idaho individual trust account or savings account by the  
 10 account owner in the twelve (12) months preceding the date of the transfer.

11 (q) Deduct any amounts included in gross income from the sale or transfer of an Idaho  
 12 commemorative medallion pursuant to section 67-1223, Idaho Code.

13 SECTION 4. That Section 63-3622PP, Idaho Code, be, and the same is hereby amended  
 14 to read as follows:

15 63-3622PP. IDAHO COMMEMORATIVE ~~SILVER~~ MEDALLIONS. There is hereby  
 16 exempted from the taxes imposed by this chapter the sale or purchase of Idaho commemorative  
 17 ~~silver~~ medallions through the office of the treasurer of the state of Idaho or through agents  
 18 designated by the state treasurer pursuant to the issuance of Idaho commemorative ~~silver~~  
 19 medallions authorized in section 67-1223, Idaho Code.

20 SECTION 5. That Section 67-1223, Idaho Code, be, and the same is hereby amended to  
 21 read as follows:

22 67-1223. IDAHO COMMEMORATIVE ~~SILVER~~ MEDALLIONS ISSUED BY THE  
 23 STATE TREASURER. (1) The state treasurer is hereby authorized to issue ~~a~~ multiple series of  
 24 commemorative silver and gold medallions for sale to the public. A series shall be designated  
 25 as either a veterans or a transportation series. ~~Each~~ The veterans series shall commemorate  
 26 Idaho history, people or resources and may bear the great seal of the state of Idaho. The  
 27 transportation series shall commemorate pioneering infrastructure and may bear the great seal  
 28 of the state of Idaho. Silver m-Medallions shall contain one (1) ounce of fine silver, shall be  
 29 alloyed to at least ninety percent (90%) fineness, and shall not constitute legal tender. Gold  
 30 medallions may be either one-fourth (1/4) or one-half (1/2) ounce of fine gold and shall be  
 31 at least fourteen (14) carat gold and contain at least fifty-eight and one-half percent (58.5%)  
 32 gold and shall not constitute legal tender. No sales or use tax shall be imposed on the sale or  
 33 purchase of medallions from the state treasurer or any agent designated by the state treasurer.  
 34 Only mints which have contracted with the state treasurer may produce Idaho commemorative  
 35 silver and gold medallions. Any other production of such medallions is a misdemeanor.

36 (2) The state treasurer shall make such arrangements as the state treasurer considers  
 37 appropriate for the production, promotion, distribution and sale of silver and gold medallions,  
 38 and shall ensure that all moneys received from the sale of silver and gold medallions are  
 39 paid into the state treasury and credited to the state veterans cemetery maintenance fund  
 40 created in section 65-107, Idaho Code. The state treasurer shall make such arrangements  
 41 as the state treasurer considers appropriate for the production, promotion, distribution and  
 42 sale of transportation gold and silver commemorative medallions, and shall ensure that all  
 43 moneys received from the sale of transportation silver and gold commemorative medallions

1 are paid into the state treasury and credited to the state highway account created in section  
2 40-702, Idaho Code. The state treasurer may promulgate administrative rules in compliance  
3 with chapter 52, title 67, Idaho Code, to implement the provisions of this section. Provided  
4 however, the state treasurer is hereby authorized to retain such amounts from the sale of  
5 medallions as necessary to repay costs incurred by the state treasurer in the promotion, shipping  
6 and handling of medallions. Provided further, if the initial cost to mint a series of medallions  
7 is provided by moneys from another state fund, then such other fund shall first be reimbursed  
8 for such costs before the remaining revenues are credited to the state veterans cemetery  
9 maintenance fund or to the state highway account. The revenues shall be used for the purposes  
10 designated in section 65-107, Idaho Code, for silver medallions and section 40-702, Idaho  
11 Code, for transportation silver and gold medallions.

12 (3) The state treasurer, in collaboration with a committee of legislators comprised of  
13 representatives appointed by the speaker of the house of representatives and senators appointed  
14 by the president pro tempore of the senate, shall determine the number of medallions to be  
15 issued in a series, shall determine the number of series to be issued, and shall approve the  
16 design of medallions for each series.

17 (4) The state treasurer, as agent of the state of Idaho, is hereby directed to obtain a  
18 federal trademark on the design of each series of medallions issued, and is further authorized,  
19 after consultation with the attorney general, to register for a state trademark under chapter 5,  
20 title 48, Idaho Code. The design of each series of Idaho commemorative ~~silver~~ medallions is  
21 the property of the state of Idaho, and the state of Idaho and the taxpayers shall be deemed to  
22 have a trademark on each design. It is the duty of the state treasurer to protect each and every  
23 trademark.

24 (a) If a person reproduces a trademark medallion design and distributes any product  
25 using any such design for the purpose of direct or indirect commercial advantage, the  
26 person shall owe to the state treasurer, as the agent of the state of Idaho, a royalty  
27 fee in addition to the revenues derived from the sale of products using a medallion  
28 design. Any person who reproduces a trademark design and distributes any product with  
29 a medallion design in violation of the provisions of this subsection (4), shall be deemed  
30 to be an infringer of the state of Idaho's trademark. The state treasurer, through the  
31 office of the attorney general, is entitled to institute an action for any infringement of that  
32 particular right committed while the state treasurer or his designated agent has custody of  
33 the trademark.

34 (b) A court having jurisdiction of a civil action arising under this subsection (4) may  
35 grant such relief as it deems appropriate. At any time while an action under this  
36 subsection (4) is pending, the court may order the impounding, on such terms as it deems  
37 reasonable, of all products in inventory of the infringer which are in violation of law.

38 (c) An infringer on the state of Idaho's trademark pursuant to this subsection (4) is liable  
39 for any profits the infringer has incurred reproducing a trademark design and distributing  
40 products using the design for commercial purposes or is liable for statutory damages as  
41 provided in paragraph (d) of this subsection (4).

42 (d) The state treasurer, as agent of the trademark owner, may elect, at any time before  
43 final judgment is rendered, to recover, instead of actual damages and profits, an award of  
44 statutory damages for all infringements involved in the action, with respect to a trademark  
45 medallion design for which any one (1) infringer is liable individually, or for which any  
46 two (2) or more infringers are liable jointly and severally, in a sum of not less than two

1 hundred fifty dollars (\$250) or more than ten thousand dollars (\$10,000), as the court  
2 considers just.

3 (e) In any civil action under this subsection (4), the court may allow the recovery of  
4 full costs by or against any party and may also award reasonable attorney's fees to the  
5 prevailing party as part of the costs.

6 (5) The veterans silver mMedallions in the first series issued shall commemorate  
7 "Support of Idaho's Heroes" to honor the courage and sacrifice of all Idaho servicemen and  
8 veterans of the United States armed forces and Idaho military branches of the armed services  
9 and shall be used to provide funding for Idaho servicemen and veterans cemeteries throughout  
10 the state. The transportation Idaho commemorative medallions shall be called "Transportation  
11 Medallions" and shall be used to provide funding for highway projects and other transportation  
12 needs throughout the state.

13 SECTION 6. An emergency existing therefor, which emergency is hereby declared to  
14 exist, Sections 1, 2, 4 and 5 of this act shall be in full force and effect on and after passage  
15 and approval and Section 3 of this act shall be in full force and effect on, and retroactively to,  
16 January 1, 2009.