

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 42

BY RUBEL

AN ACT

1 RELATING TO SALES TAX; AMENDING SECTION 57-811, IDAHO CODE, TO REVISE PRO-
2 VISIONS REGARDING THE DISTRIBUTION OF CERTAIN SALES TAX MONEYS AND TO
3 MAKE CODIFIER'S CORRECTIONS; AMENDING SECTION 63-3620F, IDAHO CODE, TO
4 REVISE PROVISIONS REGARDING THE DISTRIBUTION OF CERTAIN SALES TAX MON-
5 EYS; AMENDING SECTION 63-3638, IDAHO CODE, TO REMOVE CERTAIN CODE REF-
6 ERENCES; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
7

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

9 SECTION 1. That Section 57-811, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 57-811. TAX RELIEF FUND. (1) There is hereby created in the state
12 treasury the tax relief fund to which shall be credited all moneys remitted
13 from sections ~~63-3620F~~ and 63-3638, Idaho Code, from federal grants, dona-
14 tions, or any other source. Moneys in the fund are intended to fund future
15 tax relief statutes enacted by the legislature and may be expended pursuant
16 to appropriation. All interest earned on the investment of idle moneys in
17 the fund shall be returned to the fund.

18 (2) Immediately upon the passage of this act, the state controller
19 shall transfer ninety-four million dollars (\$94,000,000) from the tax re-
20 lief fund to the Idaho tax rebate fund.

21 (3) For fiscal year 2022, the state controller shall transfer one hun-
22 dred ten million dollars (\$110,000,000) from the tax relief fund to the gen-
23 eral fund.

24 (4) For fiscal year 2023 and each fiscal year thereafter, the state con-
25 troller shall transfer up to two hundred four million dollars (\$204,000,000)
26 from the tax relief fund to the general fund.

27 ~~(4)~~ (5) In addition to any other transfers authorized under this sec-
28 tion, for fiscal year 2024 and each fiscal year thereafter, the state con-
29 troller shall transfer up to thirty-two million dollars (\$32,000,000) from
30 the tax relief fund to the general fund.

31 ~~(4)~~ (6) In addition to any other transfers authorized under this sec-
32 tion, for fiscal years 2023 and 2024 only, the state controller shall trans-
33 fer up to thirty-four million dollars (\$34,000,000) from the tax relief fund
34 to the general fund.

35 ~~(5)~~ (7) On July 1, ~~2024~~ 2023, any remaining moneys in the tax relief
36 fund shall be distributed pursuant to the provisions of section 63-3638,
37 Idaho Code.

38 SECTION 2. That Section 63-3620F, Idaho Code, be, and the same is hereby
39 amended to read as follows:

1 63-3620F. DISTRIBUTION OF TAX COLLECTED BY MARKETPLACE FACILITA-
 2 TORS AND OUT-OF-STATE RETAILERS. ~~(1)~~ State sales and use taxes collected
 3 by retailers without a physical presence in Idaho, as described in section
 4 63-3611(3)(h), Idaho Code, and state sales and use taxes collected on trans-
 5 actions facilitated for third-party sellers by marketplace facilitators, as
 6 described in section 63-3605E, Idaho Code, shall be distributed as provided
 7 in ~~this~~ section 63-3638, Idaho Code.

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

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

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

19 ~~(3) On and after July 1, 2024, all state sales and use taxes described in~~
 20 ~~subsection (1) of this section shall be distributed by the state tax commis-~~
 21 ~~sion through the distribution formula set forth for other sales and use tax~~
 22 ~~revenue in section 63-3638, Idaho Code.~~

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

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

28 63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this
 29 chapter, except as may otherwise be required in sections 63-3203, ~~63-3620F,~~
 30 and 63-3709, Idaho Code, ~~and except as provided in subsection (16) of this~~
 31 ~~section,~~ shall be distributed by the state tax commission as follows:

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

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

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

42 (4) An amount equal to the sum required to be certified by the chair-
 43 man of the Idaho housing and finance association to the state tax commis-
 44 sion pursuant to section 67-6211, Idaho Code, in each year is continuously
 45 appropriated and shall be paid to any capital reserve fund established by
 46 the Idaho housing and finance association pursuant to section 67-6211, Idaho
 47 Code. Such amounts, if any, as may be appropriated hereunder to the capital
 48 reserve fund of the Idaho housing and finance association shall be repaid for
 49 distribution under the provisions of this section, subject to the provisions

1 of section 67-6215, Idaho Code, by the Idaho housing and finance associa-
2 tion, as soon as possible, from any moneys available therefor and in excess
3 of the amounts the association determines will keep it self-supporting.

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

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

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

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

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

41 (10) Eleven and five-tenths percent (11.5%) is continuously appro-
42 priated and shall be distributed to the revenue-sharing account, which is
43 hereby created in the state treasury, and the moneys in the revenue-sharing
44 account will be paid in installments each calendar quarter by the state tax
45 commission as follows:

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

48 (i) Beginning in fiscal year 2025 and each fiscal year there-
49 after, four million dollars (\$4,000,000) shall be transferred

1 each quarter to the state public defense fund created in section
2 57-827, Idaho Code.

3 (ii) After the distribution required by subparagraph (i) of this
4 paragraph, the revenue-sharing amount calculated by the state tax
5 commission for the various cities for each quarter of fiscal year
6 2020 shall be the base amount for current quarterly revenue dis-
7 tribution amounts. The state tax commission shall calculate the
8 per capita distribution for each city resulting from the previous
9 fiscal year's distributions.

10 (iii) If there is no change in the amount of the revenue-sharing
11 account from the same quarter of the previous fiscal year, then the
12 various cities shall receive the same amount received for the same
13 quarter of the previous fiscal year.

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

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

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

37 (v) If the balance of the revenue-sharing account for the cur-
38 rent quarter is less than the balance of the revenue-sharing ac-
39 count for the same quarter of the previous fiscal year, then the
40 cities shall first receive a proportional reduction down to the
41 base amount established in fiscal year 2020. If further reduc-
42 tions are necessary, the cities shall receive reductions based on
43 the proportion that each city's population bears to the population
44 of all cities within the state.

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

47 (i) Beginning in fiscal year 2025, five million dollars
48 (\$5,000,000) shall be transferred each quarter to the state public
49 defense fund created in section 57-827, Idaho Code. The growth
50 percentage distributed pursuant to this subparagraph shall be re-

1 calculated each quarter beginning in fiscal year 2026 and in each
2 fiscal year thereafter through fiscal year 2030. If the growth is
3 positive and is calculated over the same period from the previ-
4 ous fiscal year, a proportional increase in the initial transfer
5 amount of up to five percent (5%) annually shall be transferred to
6 the state public defense fund. After fiscal year 2030, an amount
7 equal to one-fourth (1/4) of the total amount transferred to the
8 state public defense fund in fiscal year 2030 pursuant to this
9 subparagraph shall be transferred quarterly to the state public
10 defense fund;

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

15 1. One million three hundred twenty thousand dollars
16 (\$1,320,000) annually shall be distributed one forty-fourth
17 (1/44) to each of the various counties; and

18 2. The balance of such amount shall be paid to the various
19 counties, and each county shall be entitled to an amount in
20 the proportion that the population of that county bears to
21 the population of the state; and

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

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

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

35 3. If the dollar amount of money available under this sub-
36 section (10)(b)(iii) in any quarter exceeds the amount paid
37 in the fourth quarter of calendar year 1999, each county
38 shall be entitled to a proportionately increased payment,
39 but such increase shall not exceed one hundred five percent
40 (105%) of the total payment made in the fourth quarter of
41 calendar year 1999.

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

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

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

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

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

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

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

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

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

42 (11) Amounts calculated in accordance with section 2, chapter 356, laws
43 of 2001, for annual distribution to counties and other taxing districts be-
44 ginning in October 2001 for replacement of property tax on farm machinery and
45 equipment exempted pursuant to section 63-602EE, Idaho Code. For nonschool
46 districts, the state tax commission shall distribute one-fourth (1/4) of
47 this amount certified quarterly to each county. For school districts, the
48 state tax commission shall distribute one-fourth (1/4) of the amount certi-
49 fied quarterly to each school district. For nonschool districts, the county
50 auditor shall distribute to each district within thirty (30) calendar days

1 from receipt of moneys from the state tax commission. Moneys received by
2 each taxing district for replacement shall be utilized in the same manner
3 and in the same proportions as revenues from property taxation. The moneys
4 remitted to the county treasurer for replacement of property exempt from
5 taxation pursuant to section 63-602EE, Idaho Code, may be considered by the
6 counties and other taxing districts and budgeted at the same time, in the
7 same manner and in the same year as revenues from taxation on personal prop-
8 erty which these moneys replace. If taxing districts are consolidated, the
9 resulting district is entitled to an amount equal to the sum of the amounts
10 received in the last calendar quarter by each district pursuant to this
11 subsection prior to the consolidation. If a taxing district is dissolved
12 or disincorporated, the state tax commission shall continuously distribute
13 to the board of county commissioners an amount equal to the last quarter's
14 distribution prior to dissolution or disincorporation. The board of county
15 commissioners shall determine any redistribution of moneys so received. If
16 a taxing district annexes territory, the distribution of moneys received
17 pursuant to this subsection shall be unaffected. Taxing districts formed
18 after January 1, 2001, are not entitled to a payment under the provisions
19 of this subsection. School districts shall receive an amount determined by
20 multiplying the sum of the year 2000 school district levy minus .004 times
21 the market value on December 31, 2000, in the district of the property exempt
22 from taxation pursuant to section 63-602EE, Idaho Code, provided that the
23 result of these calculations shall not be less than zero (0). The result of
24 these school district calculations shall be further increased by six per-
25 cent (6%). For purposes of the limitation provided by section 63-802, Idaho
26 Code, moneys received pursuant to this section as property tax replacement
27 for property exempt from taxation pursuant to section 63-602EE, Idaho Code,
28 shall be treated as property tax revenues.

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

32 (13) Amounts calculated in accordance with section 63-602KK(4), Idaho
33 Code, for annual distribution to counties and other taxing districts for
34 replacement of property tax on personal property tax exemptions pursuant
35 to section 63-602KK(2), Idaho Code, which amounts are continuously ap-
36 propriated unless the legislature enacts a different appropriation for a
37 particular fiscal year. For purposes of the limitation provided by section
38 63-802, Idaho Code, moneys received pursuant to this section as property tax
39 replacement for property exempt from taxation pursuant to section 63-602KK,
40 Idaho Code, shall be treated as property tax revenues. If taxing districts
41 are consolidated, the resulting district is entitled to an amount equal to
42 the sum of the amounts that were received in the last calendar year by each
43 district pursuant to this subsection prior to the consolidation. If a taxing
44 district or revenue allocation area annexes territory, the distribution of
45 moneys received pursuant to this subsection shall be unaffected. Taxing
46 districts and revenue allocation areas formed after January 1, 2022, are not
47 entitled to a payment under the provisions of this subsection.

48 (14) For fiscal years 2023 and 2024 only, a sum of thirty-four million
49 dollars (\$34,000,000) shall be distributed each year by the state tax com-
50 mission to the forty-four (44) counties in the proportion that the expen-

1 ditures of each county for indigent defense services during county fiscal
2 year 2021, excluding any state funding or grants, bear to the expenditures
3 of all counties in the state for indigent defense services during county fis-
4 cal year 2021, excluding any state funding or grants. No later than July 1,
5 2022, the state public defense commission shall certify to the state tax com-
6 mission each county's proportionate share of all counties' indigent defense
7 expenses in county fiscal year 2021, excluding any state funding or grants.

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

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

15 (b) Any portion of the four and five-tenths percent (4.5%) provided for
16 in paragraph (a) of this subsection that exceeds eighty million dollars
17 (\$80,000,000) is continuously appropriated and shall be apportioned
18 to local units of government for local highway projects in the same
19 percentages provided for in section 40-709(1) through (3), Idaho Code.
20 Local units of government may pool funds allocated to them pursuant to
21 this paragraph for local highway projects.

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

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

33 SECTION 4. An emergency existing therefor, which emergency is hereby
34 declared to exist, this act shall be in full force and effect on and after
35 July 1, 2023.