

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 540

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO SALES AND USE TAXES; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE,
2 BY THE ADDITION OF A NEW SECTION 63-3643, IDAHO CODE, TO PROVIDE FOR A
3 REBATE OF CERTAIN SALES AND USE TAXES COLLECTED FROM WITHIN A CERTAIN
4 DEVELOPMENT AREA TO THE DEVELOPER OF A FULFILLMENT CENTER COMPLEX;
5 AMENDING SECTION 63-3638, IDAHO CODE, TO REVISE THE DISTRIBUTION OF
6 SALES TAX REVENUE AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN
7 EMERGENCY.
8

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

10 SECTION 1. That Chapter 36, Title 63, 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 63-3643, Idaho Code, and to read as follows:

13 63-3643. REBATE OF SALES TAXES COLLECTED -- FULFILLMENT CENTER COM-
14 PLEX. (1) As provided in and subject to the limitations of this section, a
15 developer of a fulfillment center complex shall receive a rebate of sales and
16 use taxes collected and remitted to the state tax commission under this chap-
17 ter by new retailers and existing retailers operating within a development
18 area, as delineated by the developer's agreement, to reimburse the developer
19 for project expenses incurred for the installation of approved transporta-
20 tion improvements.

21 (2) As used in this section:

22 (a) "Approved transportation improvements" means a highway project
23 whose cost is in excess of six million dollars (\$6,000,000) for the
24 installation of an interchange from an interstate highway or expended
25 on the improvement of a highway as defined in section 40-109(5), Idaho
26 Code, in connection with the development of a fulfillment center com-
27 plex. An approved transportation improvement must be the subject of a
28 developer's agreement between the developer of the fulfillment center
29 complex and the Idaho transportation board and, if necessary, any af-
30 fected political subdivisions. An approved transportation improvement
31 includes those costs directly associated with the highway project but
32 shall not include any improvement not within the right-of-way of the
33 proposed public highway improvement, improvements not specifically
34 authorized in the agreement entered into, or developer-financed im-
35 provements required by state or local agencies as part of the permitting
36 and development process not within the public highway right-of-way.

37 (b) "Developer's agreement" means an agreement between the developer
38 of a fulfillment center complex and the Idaho transportation board and,
39 if necessary, any affected political subdivisions. The developer's
40 agreement must define the development area. The development area in-
41 cludes the location and boundaries of the fulfillment center complex
42 and the associated area of the approved transportation improvements.

1 (c) "Existing retailer" means a retailer already operating with the de-
2 velopment area prior to construction of the fulfillment center complex,
3 as outlined in the developer's agreement, and which retailer:

4 (i) Must obtain a separate seller's permit pursuant to section
5 63-3620, Idaho Code, applicable only to the development area;

6 (ii) Will collect sales or use taxes in regard to retail sales made
7 at the location within the development area and will remit all such
8 taxes to the state tax commission with returns related to its sepa-
9 rate seller's permit;

10 (iii) Has been identified in the manner required by rules of the
11 state tax commission as associated with the development area; and

12 (iv) Must provide sufficient information to the state tax commis-
13 sion to make the calculations required by subsection (4) (a) (ii) of
14 this section.

15 (d) "Fulfillment center complex" means a physical facility that ful-
16 fills customer orders for retailers who sell products through the in-
17 ternet, for which the developer has expended a minimum of four million
18 dollars (\$4,000,000) and includes:

19 (i) One (1) or more buildings in a single location constructed by
20 a developer applying for a rebate under this section; and

21 (ii) Facilities reasonably related to the buildings, such as
22 parking lots, sidewalks, lighting, traffic signs, and accessory
23 equipment.

24 (e) "New retailer" means a retailer operating in the development area,
25 as outlined in the developer's agreement, and which retailer:

26 (i) Must obtain a separate seller's permit pursuant to section
27 63-3620, Idaho Code, applicable only to the development area;

28 (ii) Will collect sales or use taxes in regard to retail sales made
29 at the location within the development area and will remit all such
30 taxes to the state tax commission with returns related to its sepa-
31 rate seller's permit;

32 (iii) Has been identified in the manner required by rules of the
33 state tax commission as associated with the development area; and

34 (iv) Did not directly or by any related party, as described in sec-
35 tion 63-3615A(2), Idaho Code, operate a retail business in the de-
36 velopment area before completion of the construction of the ful-
37 fillment center complex.

38 (f) "Political subdivision" means a city, county, or highway district
39 that receives highway funding pursuant to section 40-709, Idaho Code.

40 (g) "Retail sales" has the same meaning as provided in section 63-3609,
41 Idaho Code.

42 (h) "Retailer" has the same meaning as provided in section 63-3610,
43 Idaho Code.

44 (3) To obtain the rebate provided by this section, the developer of a
45 fulfillment center complex shall file a written claim with the state tax com-
46 mission. Before filing a claim with the state tax commission, the developer
47 of the fulfillment center complex must obtain a developer's agreement, as
48 defined in this section.

49 (a) The claim shall:

- 1 (i) Include a copy of the developer's agreement that identifies
2 the development area;
- 3 (ii) Identify the existing retailers and the new retailers making
4 retail sales within the development area;
- 5 (iii) Include verification that the developer has met the expendi-
6 ture requirements of subsection (2) (d) of this section;
- 7 (iv) Include certification from the Idaho transportation de-
8 partment or political subdivision of the amount expended on the
9 approved transportation improvements related to the fulfillment
10 center complex; and
- 11 (v) Contain such additional information as the state tax commis-
12 sion may require by rule.
- 13 (b) The claim shall be subject to such reasonable documentation and
14 verification as the state tax commission may require.
- 15 (c) A developer of a fulfillment center complex must submit a claim un-
16 der this subsection within one (1) year of the developer's last expendi-
17 ture on the approved transportation improvements.
- 18 (4) (a) Upon approval of the developer's claim by the state tax commis-
19 sion, the developer is entitled to receive a rebate of:
- 20 (i) Sixty percent (60%) of all sales and use taxes imposed by this
21 chapter and remitted to the state tax commission by new retailers
22 after the date of approval of the claim; and
- 23 (ii) For retailers already operating within the development area
24 prior to construction of the fulfillment center complex, sixty
25 percent (60%) of the amount of sales and use taxes imposed by this
26 chapter after the date of approval of the claim that is over and
27 above the amount remitted by the same retailers during the twelve
28 (12) months immediately preceding the completion of the construc-
29 tion of the fulfillment center complex.
- 30 (b) No interest shall be paid on the amounts rebated.
- 31 (c) All sales and use tax information remitted by retailers shall be
32 deemed a trade secret, shall be confidential, and shall not be disclosed
33 by the state tax commission.
- 34 (5) (a) When a developer certifies to the state tax commission and the
35 commission determines that the requirements of subsection (3) (a) of
36 this section have been met, the amount of sales and use taxes calculated
37 under subsection (4) (a) of this section shall be deposited into the ful-
38 fillment center pilot project fund, which is hereby created in the state
39 treasury.
- 40 (b) All approved rebates shall be paid by the state tax commission from
41 the fulfillment center pilot project fund in a timely manner not to ex-
42 ceed sixty (60) calendar days after receipt as funds are available in
43 the fulfillment center pilot project fund. Payments shall be specific
44 to and accounted for by each project.
- 45 (c) Approved rebates shall continue to be paid to the developer of a
46 fulfillment center complex until the total amount of rebates paid to
47 the developer equals the total amount certified pursuant to subsection
48 (3) (a) (iv) of this section or the amount of thirty-five million dollars
49 (\$35,000,000), whichever is less.

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

3 63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this
4 chapter, except as may otherwise be required in sections 63-3203, 63-3620F,
5 and 63-3709, Idaho Code, and except as provided in subsection (16) of this
6 section, shall be distributed by the state tax commission as follows:

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

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

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

17 (4) An amount equal to the sum required to be certified by the chair-
18 man of the Idaho housing and finance association to the state tax commis-
19 sion pursuant to section 67-6211, Idaho Code, in each year is continuously
20 appropriated and shall be paid to any capital reserve fund established by
21 the Idaho housing and finance association pursuant to section 67-6211, Idaho
22 Code. Such amounts, if any, as may be appropriated hereunder to the capital
23 reserve fund of the Idaho housing and finance association shall be repaid for
24 distribution under the provisions of this section, subject to the provisions
25 of section 67-6215, Idaho Code, by the Idaho housing and finance associa-
26 tion, as soon as possible, from any moneys available therefor and in excess
27 of the amounts the association determines will keep it self-supporting.

28 (5) An amount equal to the sum required by the provisions of sections
29 63-709 and 63-717, Idaho Code, after allowance for the amount appropriated
30 by section 63-718(3), Idaho Code, is continuously appropriated and shall be
31 paid as provided by sections 63-709 and 63-717, Idaho Code.

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

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

36 (8) For fiscal year 2011 and each fiscal year thereafter, four million
37 one hundred thousand dollars (\$4,100,000), of which two million two hundred
38 thousand dollars (\$2,200,000) shall be distributed to each of the forty-four
39 (44) counties in equal amounts and one million nine hundred thousand dol-
40 lars (\$1,900,000) shall be distributed to the forty-four (44) counties in
41 the proportion that the population of the county bears to the population of
42 the state. For fiscal year 2012 and for each fiscal year thereafter, the
43 amount distributed pursuant to this subsection shall be adjusted annually
44 by the state tax commission in accordance with the consumer price index for
45 all urban consumers (CPI-U) as published by the U.S. department of labor,
46 bureau of labor statistics, but in no fiscal year shall the total amount
47 allocated for counties under this subsection be less than four million one
48 hundred thousand dollars (\$4,100,000). Any increase resulting from the ad-
49 justment required in this section shall be distributed to each county in the

1 proportion that the population of the county bears to the population of the
 2 state. Each county shall establish a special election fund to which shall
 3 be deposited all revenues received from the distribution pursuant to this
 4 subsection. All such revenues shall be used exclusively to defray the costs
 5 associated with conducting elections as required of county clerks by the
 6 provisions of section 34-1401, Idaho Code.

7 (9) One dollar (\$1.00) on each application for certificate of title
 8 or initial application for registration of a motor vehicle, snowmobile,
 9 all-terrain vehicle or other vehicle processed by the county assessor or the
 10 Idaho transportation department, excepting those applications in which any
 11 sales or use taxes due have been previously collected by a retailer, shall be
 12 a fee for the services of the assessor of the county or the Idaho transporta-
 13 tion department in collecting such taxes and shall be paid into the current
 14 expense fund of the county or state highway account established in section
 15 40-702, Idaho Code.

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

21 (a) Twenty-eight and two-tenths percent (28.2%) shall be paid to the
 22 various cities as follows:

23 (i) Fifty percent (50%) of such amount shall be paid to the vari-
 24 ous cities, and each city shall be entitled to an amount in the pro-
 25 portion that the population of that city bears to the population of
 26 all cities within the state; and

27 (ii) Fifty percent (50%) of such amount shall be paid to the vari-
 28 ous cities, and each city shall be entitled to an amount in the pro-
 29 portion that the preceding year's market value for assessment pur-
 30 poses for that city bears to the preceding year's market value for
 31 assessment purposes for all cities within the state.

32 (b) Twenty-eight and two-tenths percent (28.2%) shall be paid to the
 33 various counties as follows:

34 (i) One million three hundred twenty thousand dollars
 35 (\$1,320,000) annually shall be distributed one forty-fourth
 36 (1/44) to each of the various counties; and

37 (ii) The balance of such amount shall be paid to the various coun-
 38 ties, and each county shall be entitled to an amount in the propor-
 39 tion that the population of that county bears to the population of
 40 the state;

41 (c) Thirty-five and nine-tenths percent (35.9%) of the amount appro-
 42 priated in this subsection shall be paid to the several counties for
 43 distribution to the cities and counties as follows:

44 (i) Each city and county ~~which~~ that received a payment under the
 45 provisions of section 63-3638(e), Idaho Code, during the fourth
 46 quarter of calendar year 1999~~7~~, shall be entitled to a like amount
 47 during succeeding calendar quarters.

48 (ii) If the dollar amount of money available under this subsection
 49 (10) (c) in any quarter does not equal the amount paid in the fourth

1 quarter of calendar year 1999, each city's and county's payment
2 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 paid in the fourth
5 quarter of calendar year 1999, each city and county shall be en-
6 titled to a proportionately increased payment, but such increase
7 shall not exceed one hundred five percent (105%) of the total pay-
8 ment made in the fourth quarter of calendar year 1999.

9 (iv) If the dollar amount of money available under this subsection
10 (10) (c) in any quarter exceeds one hundred five percent (105%) of
11 the total payment made in the fourth quarter of calendar year 1999,
12 any amount over and above such one hundred five percent (105%)
13 shall be paid fifty percent (50%) to the various cities in the pro-
14 portion that the population of the city bears to the population of
15 all cities within the state and fifty percent (50%) to the various
16 counties in the proportion that the population of the county bears
17 to the population of the state; and

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

21 (i) Each such district ~~which~~ that received a payment under the
22 provisions of section 63-3638(e), Idaho Code, as such subsection
23 existed immediately prior to July 1, 2000, during the fourth quar-
24 ter of calendar year 1999, shall be entitled to a like amount dur-
25 ing succeeding calendar quarters.

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

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

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

47 (v) If a special purpose taxing district is dissolved or disin-
48 corporated, the state tax commission shall continuously distrib-
49 ute to the board of county commissioners an amount equal to the
50 last quarter's distribution prior to dissolution or disincorpora-

1 tion. The board of county commissioners shall determine any re-
2 distribution of moneys so received.

3 (vi) Taxing districts formed after January 1, 2001, are not enti-
4 tled to a payment under the provisions of this subsection (10) (d) .

5 (vii) For purposes of this subsection (10) (d) , a special purpose
6 taxing district is any taxing district that is not a city, a county
7 or a school district.

8 (11) Amounts calculated in accordance with section 2, chapter 356, laws
9 of 2001, for annual distribution to counties and other taxing districts be-
10 ginning in October 2001 for replacement of property tax on farm machinery and
11 equipment exempted pursuant to section 63-602EE, Idaho Code. For nonschool
12 districts, the state tax commission shall distribute one-fourth (1/4) of
13 this amount certified quarterly to each county. For school districts, the
14 state tax commission shall distribute one-fourth (1/4) of the amount certi-
15 fied quarterly to each school district. For nonschool districts, the county
16 auditor shall distribute to each district within thirty (30) calendar days
17 from receipt of moneys from the state tax commission. Moneys received by
18 each taxing district for replacement shall be utilized in the same manner
19 and in the same proportions as revenues from property taxation. The moneys
20 remitted to the county treasurer for replacement of property exempt from
21 taxation pursuant to section 63-602EE, Idaho Code, may be considered by the
22 counties and other taxing districts and budgeted at the same time, in the
23 same manner and in the same year as revenues from taxation on personal prop-
24 erty which these moneys replace. If taxing districts are consolidated, the
25 resulting district is entitled to an amount equal to the sum of the amounts
26 received in the last calendar quarter by each district pursuant to this
27 subsection prior to the consolidation. If a taxing district is dissolved
28 or disincorporated, the state tax commission shall continuously distribute
29 to the board of county commissioners an amount equal to the last quarter's
30 distribution prior to dissolution or disincorporation. The board of county
31 commissioners shall determine any redistribution of moneys so received. If
32 a taxing district annexes territory, the distribution of moneys received
33 pursuant to this subsection shall be unaffected. Taxing districts formed
34 after January 1, 2001, are not entitled to a payment under the provisions
35 of this subsection. School districts shall receive an amount determined by
36 multiplying the sum of the year 2000 school district levy minus .004 times
37 the market value on December 31, 2000, in the district of the property exempt
38 from taxation pursuant to section 63-602EE, Idaho Code, provided that the
39 result of these calculations shall not be less than zero (0) . The result of
40 these school district calculations shall be further increased by six per-
41 cent (6%) . For purposes of the limitation provided by section 63-802, Idaho
42 Code, moneys received pursuant to this section as property tax replacement
43 for property exempt from taxation pursuant to section 63-602EE, Idaho Code,
44 shall be treated as property tax revenues.

45 (12) (a) Amounts necessary to pay refunds as provided in section
46 63-3641, Idaho Code, to a developer of a retail complex shall be remit-
47 ted to the demonstration pilot project fund created in section 63-3641,
48 Idaho Code.

49 (b) Amounts necessary to pay refunds as provided in section 63-3643,
50 Idaho Code, to a developer of a fulfillment center complex shall be re-

1 mitted to the fulfillment center pilot project fund created in section
2 63-3643(5), Idaho Code.

3 (13) Amounts calculated in accordance with subsection (4) of section
4 63-602KK, Idaho Code, for annual distribution to counties and other taxing
5 districts for replacement of property tax on personal property tax exemp-
6 tions pursuant to subsection (2) of section 63-602KK, Idaho Code, which
7 amounts are continuously appropriated unless the legislature enacts a dif-
8 ferent appropriation for a particular fiscal year. For purposes of the
9 limitation provided by section 63-802, Idaho Code, moneys received pursuant
10 to this section as property tax replacement for property exempt from taxa-
11 tion pursuant to section 63-602KK, Idaho Code, shall be treated as property
12 tax revenues. If taxing districts are consolidated, the resulting district
13 is entitled to an amount equal to the sum of the amounts that were received in
14 the last calendar year by each district pursuant to this subsection prior to
15 the consolidation. If a taxing district or revenue allocation area annexes
16 territory, the distribution of moneys received pursuant to this subsection
17 shall be unaffected. Taxing districts and revenue allocation areas formed
18 after January 1, 2013, are not entitled to a payment under the provisions of
19 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) One percent (1%), but not less than fifteen million dollars
31 (\$15,000,000), is continuously appropriated and shall be distributed to the
32 transportation expansion and congestion mitigation fund established in sec-
33 tion 40-720, Idaho Code. The distribution provided for in this subsection
34 must immediately follow the distribution provided for in subsection (10) of
35 this section.

36 SECTION 3. An emergency existing therefor, which emergency is hereby
37 declared to exist, this act shall be in full force and effect on and after its
38 passage and approval.