

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 250

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO SALES AND USE TAX; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE,  
2 BY THE ADDITION OF A NEW SECTION 63-3605E, IDAHO CODE, TO DEFINE A  
3 TERM; AMENDING SECTION 63-3611, IDAHO CODE, TO REVISE A DEFINITION  
4 AND TO CLARIFY A DUTY; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY  
5 THE ADDITION OF A NEW SECTION 63-3620E, IDAHO CODE, TO PROVIDE FOR THE  
6 COLLECTION OF THE STATE SALES OR USE TAX BY A MARKETPLACE FACILITATOR;  
7 AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW  
8 SECTION 63-3620F, IDAHO CODE, TO PROVIDE FOR THE DISTRIBUTION OF TAX  
9 COLLECTED BY CERTAIN MARKETPLACE FACILITATORS AND RETAILERS; AMENDING  
10 SECTION 57-811, IDAHO CODE, TO PROVIDE FOR THE DISTRIBUTION OF CERTAIN  
11 REVENUES TO THE TAX RELIEF FUND AND TO MAKE A TECHNICAL CORRECTION;  
12 AMENDING SECTION 63-3638, IDAHO CODE, TO EXEMPT CERTAIN TAXES FROM A  
13 CERTAIN DISTRIBUTION FORMULA AND TO MAKE TECHNICAL CORRECTIONS; AMEND-  
14 ING SECTION 63-3605, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING  
15 SECTION 63-3605A, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING  
16 SECTION 63-3605B, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SEC-  
17 TION 63-3606A, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION  
18 63-3606B, IDAHO CODE, TO REDESIGNATE THE SECTION; AND PROVIDING AN EF-  
19 FECTIVE DATE.  
20

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

22 SECTION 1. That Chapter 36, Title 63, Idaho Code, be, and the same is  
23 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
24 ignated as Section 63-3605E, Idaho Code, and to read as follows:

25 63-3605E. MARKETPLACE FACILITATOR. The term "marketplace facilita-  
26 tor" means a person that contracts with sellers to facilitate for consider-  
27 ation, including the deduction of fees from a transaction, the sale of the  
28 seller's products through a physical or electronic marketplace operated by  
29 the person, and engages:

30 (1) Directly or indirectly, through one (1) or more affiliated persons,  
31 in any of the following:

32 (a) Transmitting or otherwise communicating the offer or acceptance  
33 between the buyer and seller;

34 (b) Owning or operating the infrastructure, electronic or physical, or  
35 the technology that brings buyers and sellers together;

36 (c) Providing a virtual currency that buyers are allowed or required to  
37 use to purchase products from the seller; or

38 (d) Software development or research and development activities re-  
39 lated to any of the activities described in subsection (2) of this  
40 section, if the activities are directly related to a physical or elec-  
41 tronic marketplace operated by the person or an affiliated person; and

1 (2) In any of the following activities, with respect to the seller's  
2 products:

- 3 (a) Payment processing services;
- 4 (b) Fulfillment or storage services;
- 5 (c) Listing products for sale;
- 6 (d) Setting prices;
- 7 (e) Branding sales as those of the marketplace facilitator;
- 8 (f) Taking orders;
- 9 (g) Advertising or promotion; or
- 10 (h) Providing customer service or accepting or assisting with returns  
11 or exchanges.

12 SECTION 2. That Section 63-3611, Idaho Code, be, and the same is hereby  
13 amended to read as follows:

14 63-3611. RETAILER ENGAGED IN BUSINESS IN THIS STATE. "Retailer en-  
15 gaged in business in this state" as used in this chapter means any retailer  
16 who:

17 (1) Engages in recurring solicitation of purchases from residents of  
18 this state or otherwise purposefully directs its business activities at res-  
19 idents of this state; and

20 (2) Has sufficient contact with this state, in accordance with the con-  
21 stitution of the United States, to allow the state to require the seller to  
22 collect and remit sales or use tax on sales of tangible personal property or  
23 services made to customers in this state.

24 (3) The term "retailer engaged in business in this state" includes any  
25 of the following:

26 (a) Any retailer maintaining, occupying or using, permanently or tem-  
27 porarily, directly or indirectly, or through a subsidiary or agent, by  
28 whatever name called, an office, place of distribution, sales or sample  
29 room or place, warehouse or storage place, or other place of business or  
30 maintaining a stock of goods.

31 (b) Any retailer having any representative, agent, salesman, canvasser  
32 or solicitor operating in this state under the authority of the retailer  
33 or its subsidiary for the purpose of selling, delivering, installing or  
34 the taking of orders for any tangible personal property.

35 (c) Any retailer, with respect to a lease or rental, deriving rentals  
36 from a lease or rental of tangible personal property situated in this  
37 state.

38 (d) Any retailer engaging in any activity in connection with servicing  
39 or installing tangible personal property in this state.

40 (e) Any retailer with substantial nexus in this state within the mean-  
41 ing of section 63-3615A, Idaho Code.

42 (f) Any retailer having a franchisee or licensee operating under its  
43 trade name if the franchisee or licensee is required to collect the tax  
44 under the provisions of this section.

45 (g) (i) Any retailer that has an agreement, directly or indi-  
46 rectly, with one (1) or more persons engaged in business in this  
47 state pursuant to this section under which, for a commission or  
48 other consideration, the persons refer potential purchasers to

1 the retailer directly, whether by a link on an internet website,  
2 written or oral presentation, or otherwise; and

3 (ii) The cumulative gross receipts from sales by the retailer  
4 to purchasers who are referred by all retailers engaged in busi-  
5 ness in this state pursuant to this section with such an agreement  
6 are greater than ten thousand dollars (\$10,000) during the im-  
7 mediately preceding twelve (12) months. For purposes of this  
8 paragraph, gross receipts means receipts from sales to customers  
9 located in this state who were referred to the retailer by persons  
10 in this state with such an agreement with the retailer.

11 (iii) For purposes of this paragraph, a retailer may rebut the  
12 presumption that it is soliciting sales in Idaho through per-  
13 sons in this state with whom it has an agreement as described in  
14 subparagraph (g) (i) of this subsection paragraph. For purposes of  
15 administering such rebuttal, the state tax commission will deem  
16 the presumption rebutted if the retailer is able to establish that  
17 no persons as described in subparagraph (g) (i) of this subsection  
18 paragraph engaged in any solicitation in this state on behalf  
19 of the retailer that would satisfy the nexus requirement of the  
20 United States constitution during the twelve (12) month period in  
21 question. The state tax commission may promulgate rules to admin-  
22 ister the provisions of this subsection.

23 (h) On and after June 1, 2019, any retailer without a physical presence  
24 in Idaho that has, in the previous calendar year or the current calendar  
25 year, cumulative gross receipts from sales delivered into Idaho in ex-  
26 cess of one hundred thousand dollars (\$100,000). Provided, however, a  
27 retailer described under this paragraph (h) shall not collect or remit  
28 any local sales tax or any other tax or assessment that is not imposed by  
29 this chapter.

30 SECTION 3. That Chapter 36, Title 63, Idaho Code, be, and the same is  
31 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
32 ignated as Section 63-3620E, Idaho Code, and to read as follows:

33 63-3620E. COLLECTION OF TAX BY MARKETPLACE FACILITATORS. (1) A mar-  
34 ketplace facilitator shall register with the state tax commission and col-  
35 lect, report, and pay state sales and use taxes on any retail sale facili-  
36 tated by the marketplace facilitator. A marketplace facilitator shall not  
37 collect, report, or pay any local sales tax or any other tax or assessment  
38 that is not imposed by this chapter.

39 (2) A marketplace facilitator that has physical presence in this state  
40 but has not previously facilitated a retail sale in the state of Idaho shall  
41 have forty-five (45) days to comply with this section upon completion of the  
42 marketplace facilitator's first facilitated retail sale in Idaho.

43 (3) A marketplace facilitator that does not have physical presence in  
44 this state must comply with this section once the combined total of its own  
45 sales and any sales it facilitates for retailers or authorized agents of the  
46 retailer exceeds one hundred thousand dollars (\$100,000).

47 (4) A marketplace facilitator is not liable under this section for  
48 failure to file, collect, and remit sales and use taxes if the marketplace  
49 facilitator demonstrates that the error was due to incorrect or insuffi-

1     cient information given to the marketplace facilitator by the retailer or  
 2     authorized agent of the retailer. This subsection shall not apply if the  
 3     marketplace facilitator and the retailer or authorized agent of the retailer  
 4     are related parties.

5     (5) No class action on behalf of customers may be brought against a mar-  
 6     ketplace facilitator in any court of this state that arises from or is in any  
 7     way related to an overpayment of sales or use tax collected on sales facil-  
 8     itated by the marketplace facilitator, regardless of whether that claim is  
 9     characterized as a tax refund claim. Nothing in this subsection affects a  
 10    customer's right to seek a refund as provided under section 63-3626, Idaho  
 11    Code.

12    (6) The state tax commission may waive penalties and interest if a mar-  
 13    ketplace facilitator seeks liability relief and the state tax commission  
 14    finds that a reasonable cause exists.

15    SECTION 4. That Chapter 36, Title 63, Idaho Code, be, and the same is  
 16    hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 17    ignated as Section 63-3620F, Idaho Code, and to read as follows:

18    63-3620F. DISTRIBUTION OF TAX COLLECTED BY MARKETPLACE FACILITATORS  
 19    AND OUT-OF-STATE RETAILERS. (1) State sales and use taxes collected by  
 20    retailers without a physical presence in Idaho, as described in section  
 21    63-3611(3)(h), Idaho Code, and state sales and use taxes collected on trans-  
 22    actions facilitated for third-party sellers by marketplace facilitators, as  
 23    described in section 63-3605E, Idaho Code, shall be distributed as provided  
 24    in subsection (2) of this section.

25    (2) All state sales and use taxes described in subsection (1) of this  
 26    section shall be distributed by the state tax commission as follows:

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

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

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

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

40    57-811. TAX RELIEF FUND. There is hereby created in the state trea-  
 41    sury, the tax relief fund to which shall be credited all moneys remitted from  
 42    sections 63-3620F and 63-3638, Idaho Code, from federal grants, donations or  
 43    moneys from any other source. Moneys in the fund are intended to fund future  
 44    tax relief statutes enacted by the legislature and may be expended pursuant  
 45    to appropriation. All interest earned on the investment of idle moneys in  
 46    the fund shall be returned to the fund.

1 SECTION 6. 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 ~~account~~ 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~~r~~ 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 ~~which~~ the association determines will keep it self-support-  
28 ing.

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

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

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

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

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

8 (9) One dollar (\$1.00) on each application for certificate of title  
 9 or initial application for registration of a motor vehicle, snowmobile,  
 10 all-terrain vehicle or other vehicle processed by the county assessor or the  
 11 Idaho transportation department, excepting those applications in which any  
 12 sales or use taxes due have been previously collected by a retailer, shall be  
 13 a fee for the services of the assessor of the county or the Idaho transporta-  
 14 tion department in collecting such taxes, and shall be paid into the current  
 15 expense fund of the county or state highway account established in section  
 16 40-702, Idaho Code.

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

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

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

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

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

35 (i) One million three hundred twenty thousand dollars  
 36 (\$1,320,000) annually shall be distributed one forty-fourth  
 37 (1/44) to each of the various counties; and

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

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

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

49 (ii) If the dollar amount of money available under this subsection  
 50 (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 vari-  
16 ous counties in the proportion that the population of a the county  
17 bears 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 received a payment under the pro-  
22 visions of section 63-3638 (e), Idaho Code, as such subsection ex-  
23 isted immediately prior to July 1, 2000, during the fourth quarter  
24 of calendar year 1999, shall be entitled to a like amount during  
25 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  
34 on the proportion each such district's current property tax bud-  
35 get bears to the sum of the current property tax budgets of all  
36 such districts in the state. The state tax commission shall  
37 calculate district current property tax budgets to include any  
38 unrecovered ~~foregone~~ forgone amounts as determined under section  
39 63-802(1) (e), Idaho Code. When a special purpose taxing district  
40 is situated in more than one (1) county, the state tax commission  
41 shall determine the portion attributable to the special purpose  
42 taxing district from 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 ~~which were~~ received in the last calendar quarter  
46 by each district 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 ~~which~~ that is not a city, a  
7           county 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          ~~which were~~ received in the last calendar quarter by each district pursuant  
27          to this subsection prior to the consolidation. If a taxing district is  
28          dissolved or disincorporated, the state tax commission shall continuously  
29          distribute to the board of county commissioners an amount equal to the  
30          last quarter's distribution prior to dissolution or disincorporation. The  
31          board of county commissioners shall determine any redistribution of moneys  
32          so received. If a taxing district annexes territory, the distribution of  
33          moneys received pursuant to this subsection shall be unaffected. Taxing  
34          districts formed after January 1, 2001, are not entitled to a payment under  
35          the provisions of this subsection. School districts shall receive an amount  
36          determined by multiplying the sum of the year 2000 school district levy mi-  
37          nus .004 times the market value on December 31, 2000, in the district of the  
38          property exempt from taxation pursuant to section 63-602EE, Idaho Code, pro-  
39          vided that the result of these calculations shall not be less than zero (0).  
40          The result of these school district calculations shall be further increased  
41          by six percent (6%). For purposes of the limitation provided by section  
42          63-802, Idaho Code, moneys received pursuant to this section as property tax  
43          replacement for property exempt from taxation pursuant to section 63-602EE,  
44          Idaho Code, shall be treated as property tax revenues.

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

48          (13) Amounts calculated in accordance with subsection (4) of section  
49          63-602KK, Idaho Code, for annual distribution to counties and other taxing  
50          districts for replacement of property tax on personal property tax exemp-



1 tions pursuant to subsection (2) of section 63-602KK, Idaho Code, which  
 2 amounts are continuously appropriated unless the legislature enacts a dif-  
 3 ferent appropriation for a particular fiscal year. For purposes of the  
 4 limitation provided by section 63-802, Idaho Code, moneys received pursuant  
 5 to this section as property tax replacement for property exempt from taxa-  
 6 tion pursuant to section 63-602KK, Idaho Code, shall be treated as property  
 7 tax revenues. If taxing districts are consolidated, the resulting district  
 8 is entitled to an amount equal to the sum of the amounts that were received in  
 9 the last calendar year by each district pursuant to this subsection prior to  
 10 the consolidation. If a taxing district or revenue allocation area annexes  
 11 territory, the distribution of moneys received pursuant to this subsection  
 12 shall be unaffected. Taxing districts and revenue allocation areas formed  
 13 after January 1, 2013, are not entitled to a payment under the provisions of  
 14 this subsection.

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

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

25 (16) One percent (1%) shall be distributed to the transportation expan-  
 26 sion and congestion mitigation program established in section 40-720, Idaho  
 27 Code. The distribution provided for in this subsection must immediately  
 28 follow the distribution provided for in subsection (10) of this section.

29 SECTION 7. That Section 63-3605, Idaho Code, be, and the same is hereby  
 30 amended to read as follows:

31 63-36054B. INCLUDES AND INCLUDING. The terms "includes" and "includ-  
 32 ing" when used in this act shall not be deemed to exclude other things other-  
 33 wise within the meaning of the term defined.

34 SECTION 8. That Section 63-3605A, Idaho Code, be, and the same is hereby  
 35 amended to read as follows:

36 63-3605AC. LOGGING. The term "logging" means the harvesting of for-  
 37 est trees by cutting, skidding, loading, thinning or decking, regardless of  
 38 whether the forest trees are owned by the person performing the harvesting  
 39 when such harvesting is for resale of the product harvested.

40 SECTION 9. That Section 63-3605B, Idaho Code, be, and the same is hereby  
 41 amended to read as follows:

42 63-3605BH. MINING. The term "mining" means the extraction from the  
 43 earth of a mineral as defined in sections 47-701 and 47-701A, Idaho Code, ex-  
 44 cepting therefrom geothermal resources, and includes the further processing  
 45 of such mineral.

1 SECTION 10. That Section 63-3606A, Idaho Code, be, and the same is  
2 hereby amended to read as follows:

3 63-3606A5J. MODULAR BUILDING. The term "modular building," as de-  
4 fined in section 39-4301, Idaho Code, is a substantially complete building  
5 designed to be affixed to real property. The term "modular building," in-  
6 cludes all components incorporated in such modular building at the time of  
7 manufacture and remaining unchanged at the time of the original retail sale.  
8 Furniture, fixtures, furnishings, appliances, and attachments not incorpo-  
9 rated as component parts of the modular building at the time of manufacture  
10 shall be subject to the sales and use tax separately and distinctly from the  
11 sales price of a modular building. Refrigerators, ranges, draperies, and  
12 wood burning stoves placed in the modular home by the manufacturer shall be  
13 deemed to be components incorporated into such modular building.

14 SECTION 11. That Section 63-3606B, Idaho Code, be, and the same is  
15 hereby amended to read as follows:

16 63-3606B5L. MOTOR VEHICLE. The term "motor vehicle" means a vehicle  
17 registered or required to be registered for use on public roads. The term  
18 "motor vehicle" does not include vehicles not required to be registered pur-  
19 suant to section 49-426, Idaho Code, or intended for off-road use only, in-  
20 cluding snowmobiles, boats and aircraft, and all-terrain vehicles and off-  
21 road motorcycles when not used on public roads.

22 SECTION 12. This act shall be in full force and effect on and after June  
23 1, 2019.