

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 259, As Amended in the Senate

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 FOR A PERIOD OF TIME AND TO MAKE TECHNICAL
14 CORRECTIONS; AMENDING SECTION 63-3605, IDAHO CODE, TO REDESIGNATE
15 THE SECTION; AMENDING SECTION 63-3605A, IDAHO CODE, TO REDESIGNATE
16 THE SECTION; AMENDING SECTION 63-3605B, IDAHO CODE, TO REDESIGNATE
17 THE SECTION; AMENDING SECTION 63-3606A, IDAHO CODE, TO REDESIGNATE THE
18 SECTION; AMENDING SECTION 63-3606B, IDAHO CODE, TO REDESIGNATE THE SECTION;
19 AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE 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 this section.

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

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

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

36 (3) On and after July 1, 2024, all state sales and use taxes described in
37 subsection (1) of this section shall be distributed by the state tax commis-
38 sion as follows:

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

44 (b) The remaining funds shall be distributed through the distribu-
45 tion formula set forth for other sales and use tax revenue in section
46 63-3638, Idaho Code, except that the remainder after distribution shall
47 not be paid to the general fund pursuant to section 63-3638(15), Idaho
48 Code, but shall instead be paid to the tax relief fund established in
49 section 57-811, Idaho Code.

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

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

6 57-811. TAX RELIEF FUND. There is hereby created in the state trea-
7 sury, the tax relief fund to which shall be credited all moneys remitted from
8 sections 63-3620F and 63-3638, Idaho Code, from federal grants, donations or
9 moneys from any other source. Moneys in the fund are intended to fund future
10 tax relief statutes enacted by the legislature and may be expended pursuant
11 to appropriation. All interest earned on the investment of idle moneys in
12 the fund shall be returned to the fund.

13 SECTION 6. That Section 63-3638, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this
16 chapter, except as may otherwise be required in sections 63-3203, 63-3620F,
17 and 63-3709, Idaho Code, and except as provided in subsection (16) of this
18 section, shall be distributed by the state tax commission as follows:

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

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

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

29 (4) An amount equal to the sum required to be certified by the chair-
30 man of the Idaho housing and finance association to the state tax commis-
31 sion pursuant to section 67-6211, Idaho Code, in each year is continuously
32 appropriated and shall be paid to any capital reserve fund, established by
33 the Idaho housing and finance association pursuant to section 67-6211, Idaho
34 Code. Such amounts, if any, as may be appropriated hereunder to the capital
35 reserve fund of the Idaho housing and finance association shall be repaid for
36 distribution under the provisions of this section, subject to the provisions
37 of section 67-6215, Idaho Code, by the Idaho housing and finance associa-
38 tion, as soon as possible, from any moneys available therefor and in excess
39 of the amounts ~~which~~ the association determines will keep it self-support-
40 ing.

41 (5) An amount equal to the sum required by the provisions of sections
42 63-709 and 63-717, Idaho Code, after allowance for the amount appropriated
43 by section 63-718(3), Idaho Code, is continuously appropriated and shall be
44 paid as provided by sections 63-709 and 63-717, Idaho Code.

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

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

3 (8) For fiscal year 2011~~7~~ and each fiscal year thereafter, four million
4 one hundred thousand dollars (\$4,100,000), of which two million two hundred
5 thousand dollars (\$2,200,000) shall be distributed to each of the forty-four
6 (44) counties in equal amounts~~7~~ and one million nine hundred thousand dol-
7 lars (\$1,900,000) ~~of which~~ shall be distributed to the forty-four (44) coun-
8 ties in the proportion that the population of the county bears to the popula-
9 tion of the state. For fiscal year 2012~~7~~ and for each fiscal year thereafter,
10 the amount distributed pursuant to this subsection~~7~~ shall be adjusted annu-
11 ally by the state tax commission in accordance with the consumer price index
12 for all urban consumers (CPI-U) as published by the U.S. department of la-
13 bor, bureau of labor statistics, but in no fiscal year shall the total amount
14 allocated for counties under this subsection~~7~~ be less than four million one
15 hundred thousand dollars (\$4,100,000). Any increase resulting from the ad-
16 justment required in this section shall be distributed to each county in the
17 proportion that the population of the county bears to the population of the
18 state. Each county shall establish a special election fund to which shall be
19 deposited all revenues received from the distribution pursuant to this sub-
20 section. All such revenues shall be used exclusively to defray the costs as-
21 sociated with conducting elections as required of county clerks by the pro-
22 visions of section 34-1401, Idaho Code.

23 (9) One dollar (\$1.00) on each application for certificate of title
24 or initial application for registration of a motor vehicle, snowmobile,
25 all-terrain vehicle or other vehicle processed by the county assessor or the
26 Idaho transportation department, excepting those applications in which any
27 sales or use taxes due have been previously collected by a retailer, shall be
28 a fee for the services of the assessor of the county or the Idaho transporta-
29 tion department in collecting such taxes~~7~~ and shall be paid into the current
30 expense fund of the county or state highway account established in section
31 40-702, Idaho Code.

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

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

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

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

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

1 (i) One million three hundred twenty thousand dollars
2 (\$1,320,000) annually shall be distributed one forty-fourth
3 (1/44) to each of the various counties; and

4 (ii) The balance of such amount shall be paid to the various coun-
5 ties, and each county shall be entitled to an amount in the propor-
6 tion that the population of that county bears to the population of
7 the state;

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

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

15 (ii) If the dollar amount of money available under this subsection
16 (10) (c) in any quarter does not equal the amount paid in the fourth
17 quarter of calendar year 1999, each city's and county's payment
18 shall be reduced proportionately.

19 (iii) If the dollar amount of money available under this subsec-
20 tion (10) (c) in any quarter exceeds the amount paid in the fourth
21 quarter of calendar year 1999, each city and county shall be en-
22 titled to a proportionately increased payment, but such increase
23 shall not exceed one hundred five percent (105%) of the total pay-
24 ment made in the fourth quarter of calendar year 1999.

25 (iv) If the dollar amount of money available under this subsection
26 (10) (c) in any quarter exceeds one hundred five percent (105%) of
27 the total payment made in the fourth quarter of calendar year 1999,
28 any amount over and above such one hundred five percent (105%)
29 shall be paid fifty percent (50%) to the various cities in the pro-
30 portion that the population of the city bears to the population of
31 all cities within the state, and fifty percent (50%) to the vari-
32 ous counties in the proportion that the population of a the county
33 bears to the population of the state; and

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

37 (i) Each such district which received a payment under the pro-
38 visions of section 63-3638 (e), Idaho Code, as such subsection ex-
39 isted immediately prior to July 1, 2000, during the fourth quarter
40 of calendar year 1999, shall be entitled to a like amount during
41 succeeding calendar quarters.

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

46 (iii) If the dollar amount of money available under this subsec-
47 tion (10) (d) in any quarter exceeds the amount distributed under
48 paragraph (i) of this subsection (10) (d), each special purpose
49 taxing district shall be entitled to a share of the excess based
50 on the proportion each such district's current property tax bud-

1 get bears to the sum of the current property tax budgets of all
2 such districts in the state. The state tax commission shall
3 calculate district current property tax budgets to include any
4 unrecovered ~~foregone~~ forgone amounts as determined under section
5 63-802(1) (e), Idaho Code. When a special purpose taxing district
6 is situated in more than one (1) county, the state tax commission
7 shall determine the portion attributable to the special purpose
8 taxing district from each county in which it is situated.

9 (iv) If special purpose taxing districts are consolidated, the
10 resulting district is entitled to a base amount equal to the sum of
11 the base amounts ~~which were~~ received in the last calendar quarter
12 by each district prior to the consolidation.

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

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

21 (vii) For purposes of this subsection (10) (d), a special purpose
22 taxing district is any taxing district ~~which~~ that is not a city, a
23 county or a school district.

24 (11) Amounts calculated in accordance with section 2, chapter 356, laws
25 of 2001, for annual distribution to counties and other taxing districts be-
26 ginning in October 2001 for replacement of property tax on farm machinery and
27 equipment exempted pursuant to section 63-602EE, Idaho Code. For nonschool
28 districts, the state tax commission shall distribute one-fourth (1/4) of
29 this amount certified quarterly to each county. For school districts, the
30 state tax commission shall distribute one-fourth (1/4) of the amount certi-
31 fied quarterly to each school district. For nonschool districts, the county
32 auditor shall distribute to each district within thirty (30) calendar days
33 from receipt of moneys from the state tax commission. Moneys received by
34 each taxing district for replacement shall be utilized in the same manner
35 and in the same proportions as revenues from property taxation. The moneys
36 remitted to the county treasurer for replacement of property exempt from
37 taxation pursuant to section 63-602EE, Idaho Code, may be considered by the
38 counties and other taxing districts and budgeted at the same time, in the
39 same manner and in the same year as revenues from taxation on personal prop-
40 erty which these moneys replace. If taxing districts are consolidated, the
41 resulting district is entitled to an amount equal to the sum of the amounts
42 ~~which were~~ received in the last calendar quarter by each district pursuant
43 to this subsection prior to the consolidation. If a taxing district is
44 dissolved or disincorporated, the state tax commission shall continuously
45 distribute to the board of county commissioners an amount equal to the
46 last quarter's distribution prior to dissolution or disincorporation. The
47 board of county commissioners shall determine any redistribution of moneys
48 so received. If a taxing district annexes territory, the distribution of
49 moneys received pursuant to this subsection shall be unaffected. Taxing
50 districts formed after January 1, 2001, are not entitled to a payment under

1 the provisions of this subsection. School districts shall receive an amount
2 determined by multiplying the sum of the year 2000 school district levy mi-
3 nus .004 times the market value on December 31, 2000, in the district of the
4 property exempt from taxation pursuant to section 63-602EE, Idaho Code, pro-
5 vided that the result of these calculations shall not be less than zero (0).
6 The result of these school district calculations shall be further increased
7 by six percent (6%). For purposes of the limitation provided by section
8 63-802, Idaho Code, moneys received pursuant to this section as property tax
9 replacement for property exempt from taxation pursuant to section 63-602EE,
10 Idaho Code, shall be treated as property tax revenues.

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

14 (13) Amounts calculated in accordance with subsection (4) of section
15 63-602KK, Idaho Code, for annual distribution to counties and other taxing
16 districts for replacement of property tax on personal property tax exemp-
17 tions pursuant to subsection (2) of section 63-602KK, Idaho Code, which
18 amounts are continuously appropriated unless the legislature enacts a dif-
19 ferent appropriation for a particular fiscal year. For purposes of the
20 limitation provided by section 63-802, Idaho Code, moneys received pursuant
21 to this section as property tax replacement for property exempt from taxa-
22 tion pursuant to section 63-602KK, Idaho Code, shall be treated as property
23 tax revenues. If taxing districts are consolidated, the resulting district
24 is entitled to an amount equal to the sum of the amounts that were received in
25 the last calendar year by each district pursuant to this subsection prior to
26 the consolidation. If a taxing district or revenue allocation area annexes
27 territory, the distribution of moneys received pursuant to this subsection
28 shall be unaffected. Taxing districts and revenue allocation areas formed
29 after January 1, 2013, are not entitled to a payment under the provisions of
30 this subsection.

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

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

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

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

47 63-36054B. INCLUDES AND INCLUDING. The terms "includes" and "includ-
48 ing" when used in this act shall not be deemed to exclude other things other-
49 wise within the meaning of the term defined.

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

3 63-3605AC. LOGGING. The term "logging" means the harvesting of for-
4 est trees by cutting, skidding, loading, thinning or decking, regardless of
5 whether the forest trees are owned by the person performing the harvesting
6 when such harvesting is for resale of the product harvested.

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

9 63-3605BH. MINING. The term "mining" means the extraction from the
10 earth of a mineral as defined in sections 47-701 and 47-701A, Idaho Code, ex-
11 cepting therefrom geothermal resources, and includes the further processing
12 of such mineral.

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

15 63-3606A5J. MODULAR BUILDING. The term "modular building," as de-
16 fined in section 39-4301, Idaho Code, is a substantially complete building
17 designed to be affixed to real property. The term "modular building," in-
18 cludes all components incorporated in such modular building at the time of
19 manufacture and remaining unchanged at the time of the original retail sale.
20 Furniture, fixtures, furnishings, appliances, and attachments not incorpo-
21 rated as component parts of the modular building at the time of manufacture
22 shall be subject to the sales and use tax separately and distinctly from the
23 sales price of a modular building. Refrigerators, ranges, draperies, and
24 wood burning stoves placed in the modular home by the manufacturer shall be
25 deemed to be components incorporated into such modular building.

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

28 63-3606B5L. MOTOR VEHICLE. The term "motor vehicle" means a vehicle
29 registered or required to be registered for use on public roads. The term
30 "motor vehicle" does not include vehicles not required to be registered pur-
31 suant to section 49-426, Idaho Code, or intended for off-road use only, in-
32 cluding snowmobiles, boats and aircraft, and all-terrain vehicles and off-
33 road motorcycles when not used on public roads.

34 SECTION 12. An emergency existing therefor, which emergency is hereby
35 declared to exist, this act shall be in full force and effect on and after
36 June 1, 2019.