

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 259

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
17 SECTION 63-3606A, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SEC-
18 TION 63-3606B, IDAHO CODE, TO REDESIGNATE THE SECTION; AND DECLARING AN
19 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 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. An emergency existing therefor, which emergency is hereby
23 declared to exist, this act shall be in full force and effect on and after
24 June 1, 2019.