

IN THE SENATE

SENATE BILL NO. 1065

BY TRANSPORTATION COMMITTEE

AN ACT

1 RELATING TO TRANSPORTATION; AMENDING SECTION 40-720, IDAHO CODE, TO PROVIDE
2 FOR THE ISSUANCE OF CERTAIN BONDS; AMENDING CHAPTER 7, TITLE 40, IDAHO
3 CODE, BY THE ADDITION OF A NEW SECTION 40-721, IDAHO CODE, TO ESTABLISH
4 THE TRANSPORTATION EXPANSION AND CONGESTION MITIGATION PROGRAM CAPITAL
5 PROJECT FUND AND THE TRANSPORTATION EXPANSION AND CONGESTION MITIGA-
6 TION PROGRAM DEBT SERVICE FUND; AMENDING SECTION 63-3638, IDAHO CODE,
7 TO REVISE PROVISIONS REGARDING DISTRIBUTION OF SALES TAX AND TO MAKE
8 TECHNICAL CORRECTIONS; AND AMENDING SECTION 67-6210, IDAHO CODE, TO
9 REVISE PROVISIONS REGARDING THE POWER OF THE IDAHO HOUSING AND FINANCE
10 ASSOCIATION TO ISSUE BONDS.
11

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

13 SECTION 1. That Section 40-720, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 40-720. TRANSPORTATION EXPANSION AND CONGESTION MITIGATION PROGRAM
16 -- FUND ESTABLISHED. (1) The Idaho transportation department shall es-
17 tablish and maintain a transportation expansion and congestion mitigation
18 program.

19 (2) The fund established pursuant to this section shall finance
20 projects that expand the state system to address and mitigate transportation
21 congestion. The projects shall be evaluated by the Idaho transportation
22 department and shall be chosen by the Idaho transportation board based on a
23 policy that may include mitigation of traffic times, improvement to traffic
24 flow and mitigation of traffic congestion.

25 (3) There is hereby established in the state treasury the transporta-
26 tion expansion and congestion mitigation fund, to which shall be deposited:

27 (a) All moneys distributed pursuant to section 63-2520, Idaho Code;

28 (b) All moneys distributed pursuant to section 63-3638, Idaho Code; and

29 (c) Any other appropriated moneys for funding the transportation ex-
30 pansion and congestion mitigation program.

31 (4) Interest earned on the investment of idle moneys in the fund shall
32 be paid to the fund. All moneys in the fund shall be used for the transporta-
33 tion expansion and congestion mitigation program.

34 (5) The Idaho housing and finance association is hereby authorized
35 to issue bonds, secured by otherwise unobligated moneys in the fund estab-
36 lished in subsection (3) of this section, for the purpose of financing state
37 transportation projects approved by the Idaho transportation board. The
38 Idaho transportation board shall take into consideration the mitigation of
39 traffic congestion from the state campus site located at 11311 West Chinden
40 Boulevard, Boise, as a priority when approving transportation projects.
41 Moneys from the fund established in subsection (3) of this section shall
42 be used to pay any of the principal, interest, and other amounts for state

1 transportation projects approved by the Idaho transportation board and re-
 2 quired for bonds issued pursuant to this subsection in accordance with the
 3 provisions of chapter 62, title 67, Idaho Code. If such bonds are issued,
 4 moneys in the fund shall first be continuously appropriated and used for
 5 repayment of said bonds in accordance with subsection (7) of this section.

6 (6) The authority provided in subsection (5) of this section shall be
 7 used only to issue bonds on an approved resolution by the Idaho transporta-
 8 tion board requesting that the Idaho housing and finance association issue
 9 bonds contingent upon:

10 (a) The availability of otherwise unobligated moneys in the fund, es-
 11 tablished in subsection (3) of this section, necessary to meet bond ser-
 12 vice obligations;

13 (b) The moneys disbursed being used in accordance with United States
 14 treasury regulations to ensure tax-exempt status is retained, unless
 15 tax-exempt bonds are not available; and

16 (c) The issuance of bonds at prevailing market rates of interest.

17 (7) From moneys in the fund established in this section, there are
 18 hereby continuously appropriated first such amounts as from time to time
 19 shall be certified by the Idaho housing and finance association to the state
 20 controller, the state treasurer, and the Idaho transportation board as
 21 necessary for payment of principal, interest, and other amounts required
 22 for transportation bonds or notes of the Idaho housing and finance associ-
 23 ation in accordance with chapter 62, title 67, Idaho Code, that are issued
 24 to finance improvements described in this section, which amounts shall not
 25 exceed the amount received and transferred from section 63-3638(16), Idaho
 26 Code, which amounts shall be transferred to the transportation expansion
 27 and congestion mitigation program debt service fund established in section
 28 40-721(2), Idaho Code.

29 SECTION 2. That Chapter 7, Title 40, Idaho Code, be, and the same is
 30 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 31 ignated as Section 40-721, Idaho Code, and to read as follows:

32 40-721. TRANSPORTATION EXPANSION AND CONGESTION MITIGATION PROGRAM
 33 CAPITAL PROJECT FUND -- TRANSPORTATION EXPANSION AND CONGESTION MITIGATION
 34 PROGRAM DEBT SERVICE FUND. (1) There is hereby established in the state trea-
 35 sury the transportation expansion and congestion mitigation program capital
 36 project fund that shall include any draw by the Idaho transportation board of
 37 proceeds from the transportation bonds or notes issued by the Idaho housing
 38 and finance association in accordance with chapter 62, title 67, Idaho Code,
 39 to finance improvements described in section 40-720, Idaho Code. Interest
 40 earned on the investments of idle moneys in the transportation expansion
 41 and congestion mitigation program capital project fund shall be paid to the
 42 transportation expansion and congestion mitigation program capital project
 43 fund. Disbursements from this fund shall be paid over as requested by the
 44 Idaho transportation board and shall be made for projects in accordance with
 45 section 40-720, Idaho Code. All moneys in the fund are hereby continuously
 46 appropriated to the department.

47 (2) There is hereby established in the state treasury the transporta-
 48 tion expansion and congestion mitigation program debt service fund for the
 49 purpose of paying the principal, interest, and other amounts required for

1 transportation bonds or notes of the Idaho housing and finance association
 2 in accordance with chapter 62, title 67, Idaho Code, issued to finance im-
 3 provements described in section 40-720, Idaho Code. The fund shall include
 4 amounts distributed pursuant to sections 40-720(7) and 63-3638(16), Idaho
 5 Code, provided that such moneys distributed to the transportation expansion
 6 and congestion mitigation program debt service fund pursuant to this subsec-
 7 tion shall be used for payment of principal, interest, and other amounts re-
 8 quired for transportation bonds or notes issued by the Idaho housing and fi-
 9 nance association for improvements described in section 40-720, Idaho Code.
 10 Interest earned on the investment of idle moneys in the transportation ex-
 11 pansion and congestion mitigation program debt service fund shall be paid to
 12 the transportation expansion and congestion mitigation program debt service
 13 fund. From moneys within this fund, there are hereby continuously appropri-
 14 ated such amounts as from time to time shall be certified by the Idaho housing
 15 and finance association to the state controller, the state treasurer, and
 16 the Idaho transportation board as necessary for payment of principal, in-
 17 terest, and other amounts required for transportation bonds or notes of the
 18 Idaho housing and finance association in accordance with chapter 62, title
 19 67, Idaho Code, issued for improvements described in section 40-720, Idaho
 20 Code, which amounts shall be paid over as directed by the association. Any
 21 funds in excess of the amount necessary to meet the payment authorized in
 22 this section shall be transferred to the transportation expansion and con-
 23 gestion mitigation fund established in section 40-720, Idaho Code.

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

26 63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this
 27 chapter, except as may otherwise be required in sections 63-3203 and
 28 63-3709, Idaho Code, and except as provided in subsection (16) of this sec-
 29 tion, shall be distributed by the state tax commission as follows:

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

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

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

40 (4) An amount equal to the sum required to be certified by the chair-
 41 man of the Idaho housing and finance association to the state tax commis-
 42 sion pursuant to section 67-6211, Idaho Code, in each year is continuously
 43 appropriated and shall be paid to any capital reserve fund, established by
 44 the Idaho housing and finance association pursuant to section 67-6211, Idaho
 45 Code. Such amounts, if any, as may be appropriated hereunder to the capital
 46 reserve fund of the Idaho housing and finance association shall be repaid for
 47 distribution under the provisions of this section, subject to the provisions
 48 of section 67-6215, Idaho Code, by the Idaho housing and finance associa-
 49 tion, as soon as possible, from any moneys available therefor and in excess

1 of the amounts which the association determines will keep it self-support-
2 ing.

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

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

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

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

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

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

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

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

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

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

8 (i) One million three hundred twenty thousand dollars
9 (\$1,320,000) annually shall be distributed one forty-fourth
10 (1/44) to each of the various counties; and

11 (ii) The balance of such amount shall be paid to the various coun-
12 ties, and each county shall be entitled to an amount in the propor-
13 tion that the population of that county bears to the population of
14 the state;

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

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

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

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

32 (iv) If the dollar amount of money available under this subsection
33 (10) (c) in any quarter exceeds one hundred five percent (105%) of
34 the total payment made in the fourth quarter of calendar year 1999,
35 any amount over and above such one hundred five percent (105%)
36 shall be paid fifty percent (50%) to the various cities in the pro-
37 portion that the population of the city bears to the population of
38 all cities within the state, and fifty percent (50%) to the various
39 counties in the proportion that the population of a county bears to
40 the population of the state; and

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

44 (i) Each such district which received a payment under the pro-
45 visions of section 63-3638 (e), Idaho Code, as such subsection ex-
46 isted immediately prior to July 1, 2000, 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 subsec-
50 tion (10) (d) in any quarter does not equal the amount paid in the

1 fourth quarter of calendar year 1999, each special purpose taxing
2 district's payment shall be reduced proportionately.

3 (iii) If the dollar amount of money available under this subsec-
4 tion (10) (d) in any quarter exceeds the amount distributed under
5 paragraph (i) of this subsection (10) (d), each special purpose
6 taxing district shall be entitled to a share of the excess based
7 on the proportion each such district's current property tax bud-
8 get bears to the sum of the current property tax budgets of all
9 such districts in the state. The state tax commission shall
10 calculate district current property tax budgets to include any
11 unrecovered ~~foregone~~ forgone amounts as determined under section
12 63-802(1) (e), Idaho Code. When a special purpose taxing district
13 is situated in more than one (1) county, the state tax commission
14 shall determine the portion attributable to the special purpose
15 taxing district from each county in which it is situated.

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

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

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

28 (vii) For purposes of this subsection (10) (d), a special purpose
29 taxing district is any taxing district which is not a city, a
30 county or a school district.

31 (11) Amounts calculated in accordance with section 2, chapter 356, laws
32 of 2001, for annual distribution to counties and other taxing districts be-
33 ginning in October 2001 for replacement of property tax on farm machinery and
34 equipment exempted pursuant to section 63-602EE, Idaho Code. For nonschool
35 districts, the state tax commission shall distribute one-fourth (1/4) of
36 this amount certified quarterly to each county. For school districts, the
37 state tax commission shall distribute one-fourth (1/4) of the amount certi-
38 fied quarterly to each school district. For nonschool districts, the county
39 auditor shall distribute to each district within thirty (30) calendar days
40 from receipt of moneys from the state tax commission. Moneys received by
41 each taxing district for replacement shall be utilized in the same manner
42 and in the same proportions as revenues from property taxation. The moneys
43 remitted to the county treasurer for replacement of property exempt from
44 taxation pursuant to section 63-602EE, Idaho Code, may be considered by the
45 counties and other taxing districts and budgeted at the same time, in the
46 same manner and in the same year as revenues from taxation on personal prop-
47 erty which these moneys replace. If taxing districts are consolidated, the
48 resulting district is entitled to an amount equal to the sum of the amounts
49 which were received in the last calendar quarter by each district pursuant
50 to this subsection prior to the consolidation. If a taxing district is

1 dissolved or disincorporated, the state tax commission shall continuously
2 distribute to the board of county commissioners an amount equal to the
3 last quarter's distribution prior to dissolution or disincorporation. The
4 board of county commissioners shall determine any redistribution of moneys
5 so received. If a taxing district annexes territory, the distribution of
6 moneys received pursuant to this subsection shall be unaffected. Taxing
7 districts formed after January 1, 2001, are not entitled to a payment under
8 the provisions of this subsection. School districts shall receive an amount
9 determined by multiplying the sum of the year 2000 school district levy mi-
10 nus .004 times the market value on December 31, 2000, in the district of the
11 property exempt from taxation pursuant to section 63-602EE, Idaho Code, pro-
12 vided that the result of these calculations shall not be less than zero (0).
13 The result of these school district calculations shall be further increased
14 by six percent (6%). For purposes of the limitation provided by section
15 63-802, Idaho Code, moneys received pursuant to this section as property tax
16 replacement for property exempt from taxation pursuant to section 63-602EE,
17 Idaho Code, shall be treated as property tax revenues.

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

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

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

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

48 (16) One percent (1%), but not less than fifteen million dollars
49 (\$15,000,000), is continuously appropriated and shall be distributed to
50 the transportation expansion and congestion mitigation program fund estab-

1 lished in section 40-720, Idaho Code. The distribution provided for in this
2 subsection must immediately follow the distribution provided for in subsec-
3 tion (10) of this section.

4 SECTION 4. That Section 67-6210, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 67-6210. POWER TO ISSUE BONDS. The association shall have power and is
7 hereby authorized to issue, from time to time, its negotiable notes and bonds
8 in conformity with the applicable provisions of the uniform commercial code
9 in such principal amount as the association shall determine to be necessary
10 for sufficient funds for achieving any of its corporate purposes, including
11 the payment of interest on notes and bonds of the association, establishment
12 of reserves to secure such notes and bonds, and all other expenditures of the
13 association incidental and necessary or convenient to carry out its corpo-
14 rate purposes and powers; provided, however, that the association shall pro-
15 vide in its resolution authorizing such bonds that all revenues received by
16 the association as a result of the issuance of such bonds shall be pledged
17 first to the payment of principal and interest on such bonds.

18 (a) The association shall have the power, from time to time, to issue:

19 (1) notes to renew notes and

20 (2) bonds to pay notes, including the interest thereon, and

21 (3) whenever it deems refunding expedient, to refund any bonds by the
22 issuance of new bonds, whether the bonds to be refunded have or have not
23 matured, and to issue bonds partly to refund bonds then outstanding and
24 partly for any of its corporate purposes.

25 The refunding bonds may be:

26 (1) exchanged for the bonds to be refunded or

27 (2) sold and the proceeds applied to the purchase, redemption or pay-
28 ment of such bonds.

29 (b) Except as may otherwise be expressly provided by the association,
30 every issue of its notes and bonds shall be payable exclusively from the rev-
31 enues or income of the association, including grants and contributions from
32 the United States of America, subject only to any agreements with the holders
33 of particular notes or bonds pledging any particular revenues.

34 (c) The notes and bonds shall be authorized by resolution or resolu-
35 tions of the association, shall bear such date or dates and shall mature at
36 such time or times as such resolution or resolutions may provide. The bonds
37 may be issued as serial bonds payable in annual installments or as term bonds
38 or as a combination thereof. The notes and bonds shall bear interest at such
39 rate or rates, be in such denominations, be in such form, either coupon or
40 registered, carry such registration privileges, be executed in such manner,
41 be payable in such medium of payment, at such place or places, and be subject
42 to such terms of redemption as such resolution or resolutions may provide.
43 The notes and bonds of the association may be sold by the association, at pub-
44 lic or private sale, at such price or prices as the association shall deter-
45 mine.

46 (d) Any resolution or resolutions authorizing any notes or bonds or any
47 issue thereof may contain provisions, which shall be a part of the contract
48 or contracts with the holders thereof, as to:

- 1 (1) pledging all or any part of the revenues to secure the payment of the
2 notes or bonds or of any issue thereof, subject to such agreements with
3 noteholders or bondholders as may then exist;
- 4 (2) pledging all or any part of the assets of the association includ-
5 ing mortgages and obligations securing the same, to secure the payment
6 of the notes or bonds or of any issue of notes or bonds, subject to such
7 agreements with noteholders or bondholders as may then exist;
- 8 (3) the use and disposition of the gross income from mortgages owned by
9 the association and payment of principal of mortgages owned by the asso-
10 ciation;
- 11 (4) the setting aside of reserves or sinking funds and the regulation
12 and disposition thereof;
- 13 (5) limitations on the purpose to which the proceeds of sale of notes or
14 bonds may be applied and pledging such proceeds to secure the payment of
15 the notes or bonds or of any issue thereof;
- 16 (6) limitations on the issuance of additional notes or bonds; the terms
17 upon which additional notes or bonds may be issued and secured; and the
18 refunding of outstanding or other notes or bonds;
- 19 (7) the procedure, if any, by which the terms of any contract with note-
20 holders or bondholders may be amended or abrogated, the amount of notes
21 or bonds the holders of which must consent thereto; and the manner in
22 which such consent may be given;
- 23 (8) limitations on the amount of moneys to be expended by the associa-
24 tion for operating expenses of the association;
- 25 (9) vesting in a trustee or trustees such property, rights, powers and
26 duties in trust as the association may determine, which may include any
27 or all of the rights, powers and duties of the trustee appointed by the
28 bondholders pursuant to this act; and limiting or abrogating the right
29 of the bondholders to appoint a trustee under this act, or limiting the
30 rights, powers and duties of such trustee;
- 31 (10) defining the acts or omissions to act which shall constitute a de-
32 fault in the obligations and duties of the association to the holders of
33 the notes or bonds and providing for the rights and remedies of the hold-
34 ers of the notes or bonds in the event of such default, including as a
35 matter of right the appointment of a receiver; provided, however, that
36 such rights and remedies shall not be inconsistent with the general laws
37 of the state and the other provisions of this act;
- 38 (11) pledging all or any part of funds allocated to the association
39 under Idaho law or other revenues or the proceeds of notes or bonds to
40 secure the payment of notes or bonds issued to finance transportation
41 projects, subject to such agreements with noteholders or bondholders as
42 may then exist;
- 43 (12) setting forth the provisions for any contracts relating to its
44 bonds or notes, including, without limitation, any investment or inter-
45 est rate contracts, or any contract providing for a credit enhancement,
46 including, but not limited to, letters of credit, bond insurance and
47 surety bonds provided by private financial institutions;
- 48 (13) setting forth the provisions for representations or certifica-
49 tions to be made by an officer of the association with respect to funds
50 to be allocated to the association for transportation projects and pro-

1 visions for the disbursements of the proceeds of the bonds or notes for
2 payment of the costs of a transportation project, costs of issuance and
3 other related costs;

4 (14) pledging all or any part of funds allocated to the association pur-
5 suant to section 72-1346B, Idaho Code, or the proceeds of notes or bonds
6 to secure the payment of notes or bonds issued to finance a department of
7 labor project, subject to such agreements with noteholders or bondhold-
8 ers as may then exist;

9 (15) setting forth the provisions for representations or certifica-
10 tions to be made by an officer of the association with respect to funds
11 to be allocated to the association for a department of labor project and
12 provisions for the disbursements of the proceeds of the bonds or notes
13 for payment of the costs of a department of labor project, costs of is-
14 suanance and other related costs;

15 (16) any other matters, of like or different character, which in any way
16 affect the security or protection of the holders of the notes or bonds.

17 (e) Any pledge made by the association shall be valid and binding from
18 the time when the pledge is made; the revenues, moneys or property so pledged
19 and thereafter received by the association shall immediately be subject to
20 the lien of such pledge without any physical delivery thereof or further act,
21 and the lien of any such pledge shall be valid and binding as against all par-
22 ties having claims of any kind in tort, contract or otherwise against the as-
23 sociation, irrespective of whether such parties have notice thereof. Nei-
24 ther the resolution nor any other instrument by which a pledge is created
25 need be recorded.

26 (f) Neither the commissioners of the association nor any other person
27 executing such notes or bonds shall be subject to any personal liability or
28 accountability by reason of the issuance thereof.

29 (g) The association, subject to such agreements with noteholders or
30 bondholders as may then exist, shall have power out of any funds available
31 therefor to purchase notes or bonds of the association, which shall there-
32 upon be canceled, at a price not exceeding:

33 (1) if the notes or bonds are then redeemable, the redemption price then
34 applicable plus accrued interest to the next interest payment thereon,
35 or

36 (2) if the notes or bonds are not then redeemable, the redemption price
37 applicable on the first date after such purchase upon which the notes or
38 bonds become subject to redemption plus accrued interest to such date.

39 (h) In the discretion of the association, the bonds may be secured by
40 a trust indenture by and between the association and a corporate trustee,
41 which may be any trust company or bank having the power of a trust company in
42 the state. Such trust indenture may contain such provisions for protecting
43 and enforcing the rights and remedies of the bondholders as may be reasonable
44 and proper and not in violation of law, including covenants setting forth the
45 duties of the association in relation to the exercise of its corporate powers
46 and the custody, safeguarding and application of all moneys. The associa-
47 tion may provide by such trust indenture for the payment of the proceeds of
48 the bonds and the revenues to the trustee under such trust indenture or other
49 depository, and for the method of disbursement thereof, with such safeguards
50 and restrictions as it may determine. All expenses incurred in carrying out

1 such trust indenture may be treated as a part of the operating expenses of the
2 association. If the bonds shall be secured by a trust indenture, the bond-
3 holders shall have no authority to appoint a separate trustee to represent
4 them.

5 (i) Whether or not the notes and bonds are of such form and character as
6 to be negotiable instruments under the terms of the uniform commercial code,
7 the notes and bonds are hereby made negotiable instruments within the mean-
8 ing of and for all the purposes of the uniform commercial code, subject only
9 to the provisions of the notes and bonds for registration.

10 (j) In case any of the commissioners or officers of the association
11 whose signatures appear on any notes or bonds or coupons shall cease to be
12 such commissioners or officers before the delivery of such notes or bonds,
13 such signatures shall, nevertheless, be valid and sufficient for all pur-
14 poses, the same as if such commissioners or officers had remained in office
15 until such delivery.

16 (k) The association shall not issue any bonds or notes to finance trans-
17 portation projects unless:

18 (1) the Idaho transportation board has approved and recommended the
19 transportation projects for financing through the association;

20 (2) the Idaho transportation board has certified to the association
21 that sufficient funds are available to make the payments required for
22 the bonds or notes to be issued to finance the transportation projects
23 and that the annual, total cumulative debt service and bond-related
24 expenses on federally-funded highway project financing do not exceed
25 the limits specified in section 40-315(3), Idaho Code, or has approved a
26 resolution required under section 40-720(6), Idaho Code; and

27 (3) the association and the Idaho transportation board have entered
28 into an agreement for the association to provide financing of the trans-
29 portation projects.

30 (l) The association shall not issue any bonds or notes to finance a de-
31 partment of labor project unless:

32 (1) the director of the department of labor has approved and rec-
33 ommended the department of labor project for financing through the
34 association pursuant to section 72-1346B, Idaho Code;

35 (2) the director of the department of labor has certified to the associ-
36 ation that sufficient funds are available to make the payments required
37 for the bonds or notes to be issued to finance the department of labor
38 project; and

39 (3) the association and the director of the department of labor have en-
40 tered into an agreement for the association to provide financing of the
41 department of labor project.