

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 267

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO TRANSPORTATION AND ECONOMIC DEVELOPMENT ZONES; AMENDING CHAPTER  
2 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3642, IDAHO  
3 CODE, TO PROVIDE DEFINITIONS; AMENDING CHAPTER 36, TITLE 63, IDAHO  
4 CODE, BY THE ADDITION OF A NEW SECTION 63-3643, IDAHO CODE, TO ESTABLISH  
5 PROVISIONS AUTHORIZING THE IDAHO TRANSPORTATION DEPARTMENT AND THE  
6 IDAHO DEPARTMENT OF COMMERCE TO ENTER INTO AGREEMENTS FOR THE CREATION  
7 OF TRANSPORTATION AND ECONOMIC DEVELOPMENT ZONES, TO ESTABLISH PROVI-  
8 SIONS RELATING TO CERTAIN CRITERIA, TO ESTABLISH PROVISIONS RELATING  
9 TO THE CONSIDERATION OF CERTAIN FACTORS, TO ESTABLISH PROVISIONS RE-  
10 LATING TO CERTAIN COSTS, TO ESTABLISH PROVISIONS RELATING TO A SCHEDULE  
11 AND SUBMITTING SUCH SCHEDULE TO A BOND ISSUER, TO ESTABLISH PROVISIONS  
12 RELATING TO FINANCING, TO ESTABLISH PROVISIONS RELATING TO THE SELEC-  
13 TION OF AN ECONOMIST AND THE WORK TO BE PERFORMED BY SUCH ECONOMIST,  
14 TO ESTABLISH PROVISIONS RELATING TO FINDINGS, TO ESTABLISH PROVISIONS  
15 RELATING TO A FILING WITH THE STATE TAX COMMISSION, TO ESTABLISH PRO-  
16 VISIONS RELATING TO CERTAIN ACCOUNTS AND TO PROVIDE FOR THE CONTINUOUS  
17 APPROPRIATION OF MONEYS, TO ESTABLISH PROVISIONS RELATING TO THE PAY-  
18 MENT OF MONEYS, TO ESTABLISH PROVISIONS RELATING TO THE PAYMENT OF  
19 CERTAIN COSTS, TO ESTABLISH PROVISIONS RELATING TO CERTAIN BONDS OR  
20 NOTES TO FUND AN APPROVED PROJECT, TO ESTABLISH PROVISIONS RELATING TO  
21 THE CONSTRUCTION OF AN APPROVED PROJECT AND TO PROVIDE THAT CERTAIN MON-  
22 EYS SHALL REVERT TO THE GENERAL FUND; AMENDING SECTION 67-6210, IDAHO  
23 CODE, TO ESTABLISH PROVISIONS RELATING TO THE AUTHORITY OF THE IDAHO  
24 HOUSING AND FINANCE ASSOCIATION TO ISSUE CERTAIN BONDS AND TO MAKE TECH-  
25 NICAL CORRECTIONS; AND AMENDING SECTION 40-310, IDAHO CODE, TO PROVIDE  
26 AUTHORITY FOR THE IDAHO TRANSPORTATION BOARD TO TAKE CERTAIN ACTIONS  
27 RELATING TO THE ESTABLISHMENT OF A ZONE, TO ESTABLISH PROVISIONS RELAT-  
28 ING TO THE APPROVAL OF A PROJECT AND TO ESTABLISH PROVISIONS RELATING TO  
29 THE ISSUANCE OF CERTAIN BONDS.  
30

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

32 SECTION 1. That Chapter 36, Title 63, Idaho Code, be, and the same is  
33 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
34 ignated as Section 63-3642, Idaho Code, and to read as follows:

35 63-3642. TRANSPORTATION AND ECONOMIC DEVELOPMENT ZONES -- DEFINI-  
36 TIONS. As used in this section, the following terms shall have the following  
37 meanings:

38 (1) "Approved state highway project" means a state highway project or  
39 projects within the same corridor or within the same highway system jointly  
40 identified and approved by the Idaho department of commerce and the Idaho  
41 transportation board as provided in this chapter. Such approved state high-  
42 way project shall be restricted to improvements to a state highway system

1 as defined in section 40-120, Idaho Code, in which such expenditures for  
2 improvements shall be not less than fifty million dollars (\$50,000,000). An  
3 approved state highway project shall include those costs directly associ-  
4 ated with the state highway project, including its maintenance up to the time  
5 of acceptance by the Idaho transportation department, but shall not include  
6 any improvement not within the right-of-way of the proposed state highway  
7 improvement other than improvements necessary to facilitate the connection  
8 to other state highways or an interstate or improvements to local roadways  
9 within the approved state highway project that have been identified by the  
10 Idaho transportation department. Though an approved state highway project  
11 shall be jointly identified, the Idaho transportation department shall own  
12 the facilities constructed within the rights-of-way of the state highway  
13 project, excluding any local roads as provided in this section.

14 (2) "Base year" means the twelve (12) month period preceding the ap-  
15 proval of a transportation and economic development zone.

16 (3) "Bond" means a bond, note or other obligation issued or incurred by  
17 the bond issuer for an approved state highway project.

18 (4) "Capitalized interest" means interest for a bond or note that is in-  
19 cluded as part of the proceeds of the bond or note and meets any applicable  
20 federal tax law requirements.

21 (5) "Debt service" means the amount necessary to make the principal and  
22 interest payments required and other amounts required for bonds or notes to  
23 fund part or all of an approved state highway project, utilizing capitalized  
24 interest as allowed.

25 (6) "Debt service coverage ratio" means the ratio of continuously ap-  
26 propriated sales tax funds available annually to pay required debt service  
27 divided by the debt service required during any year, which ratio shall at  
28 least be the amount necessary to secure an investment grade or better bond  
29 rating from a bond rating agency regularly accepted by bond investors in the  
30 state of Idaho.

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

33 (8) "Retail sales" has the same meaning as that term is defined in sec-  
34 tion 63-3609, Idaho Code.

35 (9) "Revenue positive economic impacts" means the estimated calcula-  
36 tion of increased revenues to be collected by the state and its political  
37 subdivisions within the transportation and economic development zone over  
38 and above the base year collections. Such increased revenues shall include,  
39 but not be limited to, new sales and use tax revenues, construction sales and  
40 use tax revenues, income taxes, vehicle license and registration fees, mo-  
41 tor fuel tax, product taxes, personal income tax, corporate income tax and  
42 resultant property tax revenues as a result of property tax valuation in-  
43 creases.

44 (10) "Revenue positive sales tax impacts" means the estimated calcula-  
45 tion of increased sales and use tax revenues to be collected by the state  
46 within the transportation and economic development zone over and above the  
47 base year collections. Such increased revenues shall be limited to new re-  
48 tail sales and use tax revenues and construction sales and use tax revenues.

49 (11) "Transportation and economic development zone" means the bound-  
50 ary agreed to by the Idaho transportation board and the Idaho department of

1 commerce, which agreement shall be filed with the Idaho state tax commis-  
 2 sion. Prior to the filing of such transportation and economic development  
 3 zone with the Idaho state tax commission, a majority of the political subdivi-  
 4 sions located within the proposed transportation and economic development  
 5 zone shall, by resolution, approve the formation of the zone. Such resolu-  
 6 tions shall be submitted to the Idaho transportation board.

7 (12) "Transportation and economic development zone debt service fund"  
 8 means a fund established in the state treasury for the purpose of paying the  
 9 principal, interest and other amounts required for the repayment of bonds or  
 10 notes issued for an approved state highway project as described in section  
 11 63-3643(5)(b), Idaho Code.

12 (13) "Transportation and economic development zone project fund"  
 13 means a fund established in the state treasury for approved state highway  
 14 projects, which fund shall include any draw by the board of proceeds from  
 15 the approved state highway project bonds or notes and any interest earned  
 16 on the investment of idle moneys in the approved state highway project ac-  
 17 count that shall be paid to the transportation and economic development zone  
 18 project fund. All moneys in the account are continuously appropriated to the  
 19 Idaho transportation department for the funding of approved state highway  
 20 projects as defined in this section.

21 SECTION 2. That Chapter 36, Title 63, Idaho Code, be, and the same is  
 22 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 23 ignated as Section 63-3643, Idaho Code, and to read as follows:

24 63-3643. ESTABLISHMENT OF TRANSPORTATION AND ECONOMIC DEVELOPMENT  
 25 ZONES -- ADMINISTRATION AND CREATION OF APPROVED STATE HIGHWAY PROJECTS --  
 26 DEBT SERVICE ACCOUNTS. (1) The Idaho transportation board and the Idaho de-  
 27 partment of commerce, through its director, are hereby authorized to enter  
 28 into agreements for the creation of transportation and economic development  
 29 zones that encompass and surround an approved state highway project provided  
 30 the following criteria are met:

31 (a) The approved state highway project is regional in nature, connects  
 32 multiple political subdivisions and improves one (1) or more state  
 33 highways or highway systems;

34 (b) The transportation and economic development zone is estimated to  
 35 generate cumulative revenue positive sales tax impacts each year af-  
 36 ter the base year over and above the amount for the base year, which  
 37 is estimated to be an amount not less than the debt service coverage  
 38 ratio, giving credit for any capitalized interest deemed necessary to  
 39 finance the construction of the approved state highway project. In  
 40 addition, the total revenue positive economic impacts during the fol-  
 41 lowing thirty (30) year period after initiation of construction based  
 42 upon the project scope, construction and funding schedule approved by  
 43 the Idaho transportation board, are estimated to be not less than two  
 44 (2) times greater than the estimated total construction cost of the ap-  
 45 proved state highway project; and

46 (c) The approved state highway project will mitigate congestion on an  
 47 existing state highway or highways aiding in a reduction of commute time  
 48 for residents and resulting in more efficient transportation of goods  
 49 and services within the transportation and economic development zone.

1 (2) In addition to the criteria set forth in subsection (1) of this sec-  
2 tion, the Idaho transportation board and the Idaho department of commerce  
3 may also consider the following factors in the evaluation of the creation of  
4 a transportation and economic development zone:

5 (a) Whether the approved state highway project will assist a region in  
6 mitigating impacts to federal clean air standards;

7 (b) Whether the approved state highway project will connect the project  
8 to an interstate by an interchange;

9 (c) Whether the approved state highway project will have controlled ac-  
10 cess; or

11 (d) If the approved state highway project is included within the bound-  
12 aries of a metropolitan planning organization, whether portions of  
13 the approved state highway project are identified in the metropolitan  
14 planning organization's long-range plan and are either unfunded or par-  
15 tially funded.

16 (3) Prior to the formation of a transportation and economic develop-  
17 ment zone, the Idaho transportation board shall calculate the total project  
18 cost including appropriate contingencies, in current dollars as of the date  
19 of the formation of the transportation and economic development zone for  
20 the approved state highway project, prepare a project scope, construction  
21 and funding schedule and submit the same to the Idaho housing and finance  
22 association for use in projecting bond or note financing costs. The Idaho  
23 housing and finance association shall identify for the Idaho transportation  
24 board the most cost-effective and sales tax revenue neutral type of financ-  
25 ing, including the estimated terms, the use of capitalized interest and the  
26 amount of such capitalized interest which shall be for a period of not less  
27 than three (3) years unless a lesser term is more cost-effective, the is-  
28 suance costs, the debt service schedule and the debt service coverage ratio,  
29 to be used to fund the construction of the approved state highway project.  
30 The Idaho transportation board and the Idaho department of commerce shall  
31 mutually select and engage an independent economist with educational cre-  
32 dentials deemed sufficient by them. The cost associated with the engagement  
33 of such economist shall be shared equally amongst the Idaho transporta-  
34 tion board and the Idaho department of commerce; however, such costs may be  
35 recouped from amounts available in the transportation and economic devel-  
36 opment zone project fund. Such economist shall have experience in regional  
37 economic forecasting, evaluation of economic development potential, eco-  
38 nomic impact analysis, fiscal impact analysis and government revenue fore-  
39 casting within the state of Idaho. Such economist shall consider historical  
40 and projected growth rates of the region, any comprehensive plans adopted  
41 by political subdivisions within the region, the approved project scope,  
42 construction and funding schedule for the approved state highway project  
43 and plans or studies of any metropolitan planning organization within the  
44 region when forecasting the revenue positive sales tax impacts and revenue  
45 positive economic impacts. Said economist shall propose the boundaries of  
46 the transportation and economic development zone and calculate an estimate  
47 of all revenue positive sales tax impacts and revenue positive economic  
48 impacts within the proposed boundaries of the transportation and economic  
49 development zone. The economist shall establish the proposed boundaries for  
50 the transportation and economic development zone, which is estimated to pro-

1     duce cumulative revenue positive sales tax impacts after the base year that  
2     shall be at least sufficient to pay the estimated annual debt service and  
3     to meet the required debt service coverage ratio on the bonds or notes to be  
4     issued to finance construction of the approved state highway project taking  
5     into account capitalized interest. The economist shall also determine the  
6     projected minimum annual amount of such revenue positive sales tax impacts  
7     and report the same, which report shall be included in the agreement filed by  
8     the Idaho transportation board and the Idaho department of commerce with the  
9     Idaho state tax commission. Such economist shall also perform an analysis  
10    and provide an estimate of all revenue associated with the revenue positive  
11    economic impacts from the construction of the approved state highway project  
12    and subsequent economic activity occurring during a thirty (30) year pe-  
13    riod after the establishment of the transportation and economic development  
14    zone. Such analysis shall be included in the agreement of the Idaho trans-  
15    portation board and the Idaho department of commerce.

16       (4) Upon the execution of the requisite agreements and approvals of the  
17    political subdivisions as provided for in section 63-3642(11), Idaho Code,  
18    for the formation of the transportation and economic development zone and  
19    upon a finding that completion of the approved state highway project in ac-  
20    cordance with the approved project scope, construction and funding sched-  
21    ule for the approved state highway project is estimated to generate cumula-  
22    tive revenue positive sales tax impacts, beginning in the year following the  
23    base year in an amount equal to or greater than the funds necessary to meet  
24    the debt service at the required debt service coverage ratio, taking into  
25    account any capitalized interest provided by the funding source, and upon  
26    a finding that during the following thirty (30) years subsequent to forma-  
27    tion of the zone revenue positive economic impacts are estimated to be in an  
28    amount that is not less than two (2) times greater than the estimated total  
29    construction cost of the approved state highway project, the Idaho trans-  
30    portation board and the Idaho department of commerce shall include in their  
31    agreement the transportation and economic development zone boundaries and  
32    revenue positive sales tax impact and revenue positive economic impacts and  
33    the estimated annual dollar amount of each impact, and the estimated annual  
34    debt service necessary to meet the required debt service coverage ratio on  
35    the bonds or notes to be issued to finance construction of the approved state  
36    highway project taking into account capitalized interest to the maximum ex-  
37    tent financially prudent, and shall file the same with the Idaho state tax  
38    commission.

39       (5) In order to provide for the payment of approved state highway  
40    project costs and debt service and other financing costs, there are hereby  
41    created the following accounts:

42       (a) There is established in the state treasury a fund known as the  
43       "transportation and economic development zone project fund," which  
44       shall include the following amounts:

45           (i) Any draw by the Idaho transportation department of proceeds  
46           from any transportation bonds or notes issued by the Idaho housing  
47           and finance association in accordance with chapter 62, title 67,  
48           Idaho Code, to finance approved state highway projects.

1 (ii) Interest earned on the investment of idle moneys in the said  
2 transportation and economic development zone project fund shall  
3 be paid to such fund.

4 (iii) Disbursements from this fund shall be made for the applica-  
5 ble approved state highway project in accordance with chapter 3,  
6 title 40, Idaho Code. All moneys in the account are hereby contin-  
7 uously appropriated to the department.

8 (iv) The Idaho transportation department shall provide such sub-  
9 accounts as needed to track funds from more than one (1) bond or  
10 note financing for approved state highway projects.

11 (b) There is established in the state treasury a fund known as the  
12 "transportation and economic development zone debt service fund" for  
13 the purpose of paying the principal, interest and other amounts re-  
14 quired for any transportation bonds or notes of the Idaho housing and  
15 finance association in accordance with chapter 62, title 67, Idaho  
16 Code, to finance approved state highway projects, which fund shall in-  
17 clude the following amounts:

18 (i) Amounts continuously appropriated from the state sales tax  
19 upon certification by the Idaho housing and finance association  
20 to the Idaho state tax commission, the state controller, the state  
21 treasurer and the Idaho transportation board, as provided in sub-  
22 section (6) of this section, necessary for payment of principal,  
23 interest and other amounts required for transportation bonds or  
24 notes.

25 (ii) Interest earned on the investment of idle moneys in the ap-  
26 proved transportation and economic development zone debt service  
27 fund shall be paid to the transportation and economic development  
28 zone debt service fund.

29 (iii) The Idaho transportation department shall provide such sub-  
30 accounts as needed to track funds from more than one bond or note  
31 financing for approved state highway projects. From moneys within  
32 the transportation and economic development zone debt service  
33 fund, there are hereby continuously appropriated such amounts  
34 as, from time to time, shall be certified by the Idaho housing and  
35 finance association to the Idaho state tax commission, the state  
36 controller and the Idaho transportation board as necessary for  
37 payment of principal, interest and other amounts required for  
38 transportation bonds or notes of the Idaho housing and finance  
39 association issued in accordance with chapter 62, title 67, Idaho  
40 Code, for approved state highway projects, which amounts shall be  
41 paid over as directed by the association.

42 (6) Subsequent to the formation and filing with the Idaho state tax com-  
43 mission, within sixty (60) days subsequent to the issuance of bonds or notes  
44 for an approved state highway project, the Idaho housing and finance associ-  
45 ation shall certify to the Idaho state tax commission, the state controller,  
46 the state treasurer and the Idaho transportation board initially an amount  
47 equal to six (6) months of the projected first year's debt service on the  
48 bonds or notes for an approved state highway project and thereafter a certi-  
49 fication stating the monthly amounts equal to one-twelfth (1/12) of the next  
50 year's principal payment and one-sixth (1/6) of the next interest payment

1 and other amounts required for said bonds or notes, which certifications may  
2 be amended as needed from time to time and such certified amount shall be con-  
3 tinuously appropriated from the sales tax revenues. The Idaho state tax com-  
4 mission shall deposit such amounts to the transportation and economic devel-  
5 opment zone debt service fund at such times as indicated in such certifica-  
6 tion taking into account any capitalized interest. Said continuous appro-  
7 priation to the transportation and economic development zone debt service  
8 fund shall be made from any then available sales tax revenues collected by  
9 the state tax commission and shall continue until such amounts have been de-  
10 posited. Such continuous appropriation shall be subordinate to payment of  
11 the state's tax anticipation notes issued under chapter 32, title 63, Idaho  
12 Code, to payment from the state sales tax under the state's school bond guar-  
13 anty pursuant to chapter 53, title 33, Idaho Code, and to the payment of the  
14 bonds or notes of the Idaho bond bank authority from the sales tax under chap-  
15 ter 87, title 67, Idaho Code. Upon payment in full of the said bonds, notes  
16 or other obligations for the applicable approved state highway project, such  
17 deposits shall cease being continuously appropriated and deposited into the  
18 transportation and economic development zone debt service fund.

19 (7) Such bonds or notes to fund an approved state highway project may be  
20 issued in accordance with the provisions of this section as long as the av-  
21 erage annual debt service for such bonds or notes and all other outstanding  
22 transportation and economic development zone bonds or notes does not exceed  
23 seven and one-half percent (7.5%) of the state sales tax collection during  
24 the most recent fiscal year of the state, and such bonds or notes may include,  
25 but not be limited to, financing through any federal highway program. Cap-  
26 italized interest shall, to the maximum extent financially prudent, be uti-  
27 lized for such bonds or notes in an amount at least sufficient to pay inter-  
28 est on such bonds or notes through placement in service of the approved state  
29 highway project, subject to any applicable requirements of state and federal  
30 law. The Idaho transportation board, in conjunction with the Idaho hous-  
31 ing and finance association, may apply for such financing or for guarantees  
32 or other assistance for payment of the debt service on federally authorized  
33 highway program financing, governmental bonds or private activity bonds or  
34 any other Idaho transportation board approved borrowing.

35 (8) An approved state highway project shall be constructed in an ex-  
36 peditious manner in accordance with the approved project scope, construc-  
37 tion and funding schedule for the approved state highway project prepared in  
38 accordance with subsection (3) of this section. Any deposits made into the  
39 transportation and economic development zone project fund or transportation  
40 and economic development zone debt service fund not expended within five (5)  
41 years from the deposit thereof and not needed as a reserve or to pay debt ser-  
42 vice on bonds or notes issued for an approved state highway project or to pay  
43 other applicable approved state highway project costs shall be applied to-  
44 ward payment of the applicable bonds or notes or, if none are then outstand-  
45 ing, shall revert to the general sales tax account of the state of Idaho.

46 (9) For so long as bonds or notes for an approved state highway project  
47 are outstanding, there shall be filed within one hundred twenty (120) days  
48 following the end of the state's fiscal year a report prepared by an indepen-  
49 dent economist as provided for in this section, which cost shall be shared  
50 equally amongst the Idaho transportation board and the Idaho department of

1 commerce, and shall state the estimated revenue positive sales tax impacts  
 2 and revenue positive economic impacts that have occurred within a trans-  
 3 portation and economic development zone within the prior fiscal year com-  
 4 pared to the initial economic report used in the formation of the transporta-  
 5 tion and economic development zone. Such report shall be a public record.

6 (10) For so long as bonds or notes for an approved state highway  
 7 project are outstanding, there shall be filed within one hundred twenty  
 8 (120) days following the end of the state's fiscal year a report prepared by  
 9 the Idaho transportation department detailing all transfers, additions or  
 10 withdrawals from the transportation and economic development zone project  
 11 fund. In addition, there shall be filed within one hundred twenty (120)  
 12 days following the end of the state's fiscal year a report prepared by the  
 13 Idaho transportation department detailing all transfers, additions or with-  
 14 drawals from the transportation and economic development zone debt service  
 15 fund compared to the Idaho housing and finance association debt service  
 16 schedule. Such reports shall be a public record.

17 (11) Such reports as set forth in subsections (9) and (10) of this sec-  
 18 tion shall be provided to the governor, the chairman of the senate finance  
 19 committee, the chairman of the house of representatives appropriations com-  
 20 mittee, the chairman of the senate transportation committee and the chairman  
 21 of the house of representatives transportation and defense committee.

22 SECTION 3. That Section 67-6210, Idaho Code, be, and the same is hereby  
 23 amended to read as follows:

24 67-6210. POWER TO ISSUE BONDS. The association shall have power and is  
 25 hereby authorized to issue, from time to time, its negotiable notes and bonds  
 26 in conformity with the applicable provisions of the uniform commercial code  
 27 in such principal amount as the association shall determine to be necessary  
 28 for sufficient funds for achieving any of its corporate purposes, including  
 29 the payment of interest on notes and bonds of the association, establishment  
 30 of reserves to secure such notes and bonds, and all other expenditures of the  
 31 association incidental and necessary or convenient to carry out its corpo-  
 32 rate purposes and powers; provided, however, that the association shall pro-  
 33 vide in its resolution authorizing such bonds that all revenues received by  
 34 the association as a result of the issuance of such bonds shall be pledged  
 35 first to the payment of principal and interest on such bonds.

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

37 (1) ~~n~~Notes to renew notes and

38 (2) ~~b~~Bonds to pay notes, including the interest thereon, and

39 (3) ~~w~~Whenever it deems refunding expedient, to refund any bonds by the  
 40 issuance of new bonds, whether the bonds to be refunded have or have not  
 41 matured, and to issue bonds partly to refund bonds then outstanding and  
 42 partly for any of its corporate purposes.

43 The refunding bonds may be:

44 (1) ~~e~~Exchanged for the bonds to be refunded or

45 (2) ~~s~~Bold and the proceeds applied to the purchase, redemption or pay-  
 46 ment of such bonds.

47 (b) Except as may otherwise be expressly provided by the association,  
 48 every issue of its notes and bonds shall be payable exclusively from the rev-  
 49 enues or income of the association, including grants and contributions from



1 the United States of America, subject only to any agreements with the holders  
2 of particular notes or bonds pledging any particular revenues.

3 (c) The notes and bonds shall be authorized by resolution or resolu-  
4 tions of the association, shall bear such date or dates and shall mature at  
5 such time or times as such resolution or resolutions may provide. The bonds  
6 may be issued as serial bonds payable in annual installments or as term bonds  
7 or as a combination thereof. The notes and bonds shall bear interest at such  
8 rate or rates, be in such denominations, be in such form, either coupon or  
9 registered, carry such registration privileges, be executed in such manner,  
10 be payable in such medium of payment, at such place or places, and be subject  
11 to such terms of redemption as such resolution or resolutions may provide.  
12 The notes and bonds of the association may be sold by the association, at pub-  
13 lic or private sale, at such price or prices as the association shall deter-  
14 mine.

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

18 (1) ~~p~~Pledging all or any part of the revenues to secure the payment of  
19 the notes or bonds or of any issue thereof, subject to such agreements  
20 with noteholders or bondholders as may then exist;

21 (2) ~~p~~Pledging all or any part of the assets of the association includ-  
22 ing mortgages and obligations securing the same, to secure the payment  
23 of the notes or bonds or of any issue of notes or bonds, subject to such  
24 agreements with noteholders or bondholders as may then exist;

25 (3) ~~t~~The use and disposition of the gross income from mortgages owned by  
26 the association and payment of principal of mortgages owned by the asso-  
27 ciation;

28 (4) ~~t~~The setting aside of reserves or sinking funds and the regulation  
29 and disposition thereof;

30 (5) ~~l~~Limitations on the purpose to which the proceeds of sale of notes  
31 or bonds may be applied and pledging such proceeds to secure the payment  
32 of the notes or bonds or of any issue thereof;

33 (6) ~~l~~Limitations on the issuance of additional notes or bonds; the  
34 terms upon which additional notes or bonds may be issued and secured;  
35 and the refunding of outstanding or other notes or bonds;

36 (7) ~~t~~The procedure, if any, by which the terms of any contract with  
37 noteholders or bondholders may be amended or abrogated, the amount of  
38 notes or bonds the holders of which must consent thereto; and the manner  
39 in which such consent may be given;

40 (8) ~~l~~Limitations on the amount of moneys to be expended by the associa-  
41 tion for operating expenses of the association;

42 (9) ~~v~~Vesting in a trustee or trustees such property, rights, powers and  
43 duties in trust as the association may determine, which may include any  
44 or all of the rights, powers and duties of the trustee appointed by the  
45 bondholders pursuant to this act; and limiting or abrogating the right  
46 of the bondholders to appoint a trustee under this act, or limiting the  
47 rights, powers and duties of such trustee;

48 (10) ~~d~~Defining the acts or omissions to act which shall constitute a de-  
49 fault in the obligations and duties of the association to the holders of  
50 the notes or bonds and providing for the rights and remedies of the hold-

1       ers of the notes or bonds in the event of such default, including as a  
2 matter of right the appointment of a receiver; provided, however, that  
3 such rights and remedies shall not be inconsistent with the general laws  
4 of the state and the other provisions of this act;

5       (11) ~~p~~Pledging all or any part of funds allocated to the association  
6 under Idaho law or other revenues or the proceeds of notes or bonds to  
7 secure the payment of notes or bonds issued to finance transportation  
8 projects, subject to such agreements with noteholders or bondholders as  
9 may then exist;

10       (12) ~~s~~Setting forth the provisions for any contracts relating to its  
11 bonds or notes, including, without limitation, any investment or inter-  
12 est rate contracts, or any contract providing for a credit enhancement,  
13 including, but not limited to, letters of credit, bond insurance and  
14 surety bonds provided by private financial institutions;

15       (13) ~~s~~Setting forth the provisions for representations or certifica-  
16 tions to be made by an officer of the association with respect to funds  
17 to be allocated to the association for transportation projects and pro-  
18 visions for the disbursements of the proceeds of the bonds or notes for  
19 payment of the costs of a transportation project, costs of issuance and  
20 other related costs;

21       (14) ~~p~~Pledging all or any part of funds allocated to the association  
22 pursuant to section 72-1346B, Idaho Code, or the proceeds of notes or  
23 bonds to secure the payment of notes or bonds issued to finance a depart-  
24 ment of labor project, subject to such agreements with noteholders or  
25 bondholders as may then exist;

26       (15) ~~s~~Setting forth the provisions for representations or certifica-  
27 tions to be made by an officer of the association with respect to funds  
28 to be allocated to the association for a department of labor project and  
29 provisions for the disbursements of the proceeds of the bonds or notes  
30 for payment of the costs of a department of labor project, costs of is-  
31 suance and other related costs;

32       (16) ~~a~~Any other matters, of like or different character, which in any  
33 way affect the security or protection of the holders of the notes or  
34 bonds.

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

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

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

1 (1) ~~±~~If the notes or bonds are then redeemable, the redemption price  
2 then applicable plus accrued interest to the next interest payment  
3 thereon, or

4 (2) ~~±~~If the notes or bonds are not then redeemable, the redemption price  
5 applicable on the first date after such purchase upon which the notes or  
6 bonds become subject to redemption plus accrued interest to such date.

7 (h) In the discretion of the association, the bonds may be secured by  
8 a trust indenture by and between the association and a corporate trustee,  
9 which may be any trust company or bank having the power of a trust company in  
10 the state. Such trust indenture may contain such provisions for protecting  
11 and enforcing the rights and remedies of the bondholders as may be reasonable  
12 and proper and not in violation of law, including covenants setting forth the  
13 duties of the association in relation to the exercise of its corporate powers  
14 and the custody, safeguarding and application of all moneys. The associa-  
15 tion may provide by such trust indenture for the payment of the proceeds of  
16 the bonds and the revenues to the trustee under such trust indenture or other  
17 depository, and for the method of disbursement thereof, with such safeguards  
18 and restrictions as it may determine. All expenses incurred in carrying out  
19 such trust indenture may be treated as a part of the operating expenses of the  
20 association. If the bonds shall be secured by a trust indenture, the bond-  
21 holders shall have no authority to appoint a separate trustee to represent  
22 them.

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

28 (j) In case any of the commissioners or officers of the association  
29 whose signatures appear on any notes or bonds or coupons shall cease to be  
30 such commissioners or officers before the delivery of such notes or bonds,  
31 such signatures shall, nevertheless, be valid and sufficient for all pur-  
32 poses, the same as if such commissioners or officers had remained in office  
33 until such delivery.

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

36 (1) ~~±~~The Idaho transportation board has approved and recommended the  
37 transportation projects for financing through the association;

38 (2) ~~±~~The Idaho transportation board has certified to the association  
39 that:

40 (i) ~~±~~Sufficient funds are available to make the payments required  
41 for the bonds or notes to be issued to finance the transportation  
42 projects described in section 40-315, Idaho Code, and that the  
43 annual, total cumulative debt service and bond-related expenses  
44 on ~~federally-funded~~ federally funded highway project financing do  
45 not exceed the limits specified in section 40-315(3), Idaho Code;

46 or

47 (ii) Sufficient funds are estimated to be available to make the  
48 payments required for the bonds or notes to be issued to finance a  
49 transportation project described in section 63-3643, Idaho Code;  
50 and

1           (3) ~~The~~ association and the Idaho transportation board have entered  
2 into an agreement for the association to provide financing of the trans-  
3 portation projects.

4           (1) The association shall not issue any bonds or notes to finance a de-  
5 partment of labor project unless:

6           (1) ~~The~~ director of the department of labor has approved and recom-  
7 mended the department of labor project for financing through the asso-  
8 ciation pursuant to section 72-1346B, Idaho Code;

9           (2) ~~The~~ director of the department of labor has certified to the as-  
10 sociation that sufficient funds are available to make the payments re-  
11 quired for the bonds or notes to be issued to finance the department of  
12 labor project; and

13           (3) ~~The~~ association and the director of the department of labor have  
14 entered into an agreement for the association to provide financing of  
15 the department of labor project.

16           SECTION 4. That Section 40-310, Idaho Code, be, and the same is hereby  
17 amended to read as follows:

18           40-310. POWERS AND DUTIES -- STATE HIGHWAY SYSTEM. The board shall:

19           (1) Determine which highways in the state, or sections of highways,  
20 shall be designated and accepted for the purpose of this title as a part of  
21 the state highway system.

22           (a) In determining which highways or section of highways shall be a  
23 part of the state highway system, the board shall consider the rela-  
24 tive importance of each highway to cities, existing business, industry  
25 and enterprises and to the development of cities, natural resources,  
26 industry and agriculture and be guided by statistics on existing and  
27 projected traffic volumes. The board shall also consider the safety  
28 and convenience of highway users, the common welfare of the people of  
29 the state, and of the cities within the state and the financial capacity  
30 of the state of Idaho to acquire rights-of-way and to construct, re-  
31 construct and maintain state highways. In making a determination, the  
32 board must, before it can abandon, relocate, or replace by a new high-  
33 way, any highway serving or traversing any city, or the area in which the  
34 city is located, specifically find and determine that the benefits to  
35 the state of Idaho are greater than the economic loss and damage to the  
36 city affected. No highway serving or traversing any city shall be aban-  
37 doned, relocated or replaced by a new highway serving the area in which a  
38 city is located without the board first holding a public hearing in that  
39 city. Written notice setting forth the action proposed to be taken by  
40 the board shall be served upon the mayor of any city affected, and upon  
41 all property owners from which acquisition of right-of-way is necessary  
42 and from which that property must be purchased, by certified or regis-  
43 tered mail, and shall also be published in at least one (1) issue of a  
44 newspaper published and of general circulation in each city affected.  
45 If there is no newspaper published in the city, then a notice shall be  
46 posted in three (3) of the most public places in the city. The notice  
47 shall contain a statement of any action contemplated by the board af-  
48 fecting the city or property owner, and shall specify the time and place  
49 of the hearing. At the hearing a property owner from which right-of-way

1 is necessary to be acquired and from which that property must be pur-  
2 chased, and the governing body of any city affected may appear, voice  
3 objections to the action proposed to be taken by the board, and may  
4 present evidence and call witnesses in support of their objections. The  
5 board shall give consideration to the protests and objections and make  
6 a written decision determining whether or not the proposed action would  
7 be of greater benefit to the state of Idaho than the economic loss and  
8 damage resulting to the city. The board shall serve a written decision  
9 upon the governing body of any affected city and property owners within  
10 ten (10) days following the completion of the hearing, and no action  
11 shall be taken by the board prior to the service of the written decision.

12 (b) Within ten (10) days after the written decision has been served, an  
13 appeal may be taken from the decision by the person from whom the prop-  
14 erty must be purchased, the interested city, board of county commis-  
15 sioners, or highway district commissioners to the district court in and  
16 for the county in which the city affected by the order is located. The  
17 appeal shall be taken and perfected in the following manner:

18 1. The appellant shall file with the clerk of the district court  
19 of the proper county, and serve upon the board, notice specifying  
20 the grounds of appeal, and a certified copy of the decision of the  
21 board appealed from. The district court shall then have jurisdic-  
22 tion of the matter and may make any order or judgment that the eq-  
23 uities of the case require. Upon the appeal being perfected, the  
24 appeal shall receive a preferential place on the calendar of the  
25 district court.

26 2. The appeal shall be heard and determined by the district court  
27 in a summary manner as in a suit in equity, and the trial shall be a  
28 trial de novo on the issues framed. The court may affirm, reverse,  
29 or modify the order appealed from and may issue injunctions when-  
30 ever it appears necessary for the protection of the interests of  
31 any party to the appeal.

32 3. No bond or undertaking shall be required of any party appealing  
33 under any of the provisions of this section.

34 4. The filing fees required in the district court shall be the same  
35 as is provided for filing cases originally in the court.

36 (c) Any final order or judgment of the district court under this sub-  
37 section shall be appealable to the supreme court of the state of Idaho  
38 within thirty (30) days following the entry of the final order or judg-  
39 ment in the same manner as appeals in civil actions are taken to the  
40 supreme court.

41 (d) The board shall take no action on any matter affecting any property  
42 owner from which right-of-way is necessary to be acquired or any city  
43 until either:

44 1. The time has elapsed for an appeal to the district court and no  
45 appeal has been filed; or

46 2. If an appeal has been taken to the district court, then until  
47 the time for appeal from its final order or judgment to the supreme  
48 court has elapsed and no appeal has been taken; or

49 3. If an appeal has been taken to the supreme court, then until the  
50 matter has been finally determined by that court.

1 (2) The board shall cause to be prepared and publicly displayed in a  
2 conspicuous place in their offices a complete map of the state highway sys-  
3 tem in which each section shall be identified by location, length and a con-  
4 trol number. The map shall be of a suitable size and scale and contain data  
5 and information as deemed appropriate by the board. Periodically, and not  
6 less than once each year, the board shall revise and correct the map to record  
7 the changes in the designated state highway system resulting from additions,  
8 abandonments and relocations. Hand maps of the state highway system shall be  
9 issued periodically for public distribution.

10 (3) Abandon the maintenance of any highway and remove it from the state  
11 highway system, when that action is determined by the unanimous consent of  
12 the board to be in the public interest.

13 (4) Locate, design, construct, reconstruct, alter, extend, repair and  
14 maintain state highways, and plan, design and develop statewide transporta-  
15 tion systems when determined by the board to be in the public interest.

16 (5) Establish standards for the location, design, construction, re-  
17 construction, alteration, extension, repair and maintenance of state high-  
18 ways, provided that standards of state highways through local highway juris-  
19 dictions shall be coordinated with the standards in use for the systems of  
20 the respective local highway jurisdictions. The board shall make agreements  
21 with local highway jurisdictions having within their limits state highway  
22 sections in the category described in section 40-502, Idaho Code, and pro-  
23 vide for an equitable division of the maintenance of those sections. The  
24 board may also, in the interest of economy and efficiency, arrange to have  
25 any or all of the state highway sections within local highway jurisdictions  
26 maintained by those local highway jurisdictions, the cost of the work as lim-  
27 ited by section 40-502, Idaho Code, to be reimbursed by the state.

28 (6) Cause to be made and kept, surveys, studies, maps, plans, specifi-  
29 cations and estimates for the alteration, extension, repair and maintenance  
30 of state highways, and so far as practicable, of all highways in the state,  
31 and for that purpose to demand and to receive reports and copies of records  
32 from county commissioners, commissioners of highway districts, county engi-  
33 neers and directors of highways and all other highway officials within the  
34 state.

35 (7) Approve and determine the final plans, specifications and esti-  
36 mates for state highways and cause contracts for state highway work to be let  
37 by contract in the manner provided by law.

38 (8) Expend funds appropriated for construction, maintenance and im-  
39 provement of state highways.

40 (9) Designate state highways, or parts of them, as controlled-access  
41 facilities and regulate, restrict or prohibit access to those highways to  
42 serve the traffic for which the facility is intended.

43 (10) Close or restrict the use of any state highway whenever the closing  
44 or restricting of use is deemed by the board to be necessary for the protec-  
45 tion of the public or for the protection of the highway or any section from  
46 damage.

47 (11) Designate main traveled state highways as through highways. The  
48 traffic on through highways shall have the right-of-way over the traffic on  
49 any other highway intersecting with it, provided, that at the intersection

1 of two (2) through highways the board shall determine which traffic shall  
2 have the right-of-way.

3 (12) Furnish, erect and maintain standard signs on side highways di-  
4 recting drivers of vehicles approaching a designated through highway to come  
5 to a full stop before entering or crossing the through highway.

6 (13) Provide a right-of-way for and supervise the construction of side  
7 paths or sidewalks along regularly designated state highways outside the  
8 boundaries of incorporated cities and the expenditures for the construction  
9 of them may be made from the highway funds of the county or highway districts.

10 (14) Upon certification and requisition of an appropriate board, com-  
11 mission, governing body, or official head of any state institution and on the  
12 approval of the governor, showing the same to be necessary, construct, al-  
13 ter, repair, and maintain the roadways in, through, and about the grounds of  
14 state institutions. The construction, alteration, repair and maintenance  
15 shall be accomplished and paid for from the state highway account in accor-  
16 dance with the provisions of chapter 7, title 40, Idaho Code. This provision  
17 shall not be construed to divest any board, commission, governing body, or  
18 official head of an institution their constitutional or statutory powers.

19 (15) In connection with any bonds or notes to be issued by the Idaho  
20 housing and finance association as described in section 63-3643, Idaho Code,  
21 and chapter 62, title 67, Idaho Code, to take all such actions as may be  
22 required for establishment of a transportation economic development zone,  
23 for approval of an approved state highway project and for issuance of said  
24 bonds or notes including, without limitation, to enter into agreements with  
25 the association and to make recommendations to the association in connection  
26 with such bonds or notes.