

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 690

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO TRANSPORTATION AND ECONOMIC DEVELOPMENT ZONES; AMENDING CHAP-  
2 TER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3642,  
3 IDAHO CODE, TO PROVIDE DEFINITIONS; AMENDING CHAPTER 36, TITLE 63,  
4 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3643, IDAHO CODE, TO  
5 AUTHORIZE THE IDAHO TRANSPORTATION DEPARTMENT AND THE IDAHO DEPARTMENT  
6 OF COMMERCE TO ENTER INTO AGREEMENTS FOR THE CREATION OF TRANSPORTA-  
7 TION AND ECONOMIC DEVELOPMENT ZONES, TO PROVIDE FOR CERTAIN CRITERIA,  
8 TO ESTABLISH PROVISIONS RELATING TO THE CONSIDERATION OF CERTAIN FAC-  
9 TORS, TO ESTABLISH PROVISIONS RELATING TO PROJECT COST, TO ESTABLISH  
10 PROVISIONS RELATING TO A CONSTRUCTION AND FUNDING SCHEDULE AND SUBMIT-  
11 TING SUCH SCHEDULE TO A BOND ISSUER, TO ESTABLISH PROVISIONS RELATING  
12 TO FINANCING, TO ESTABLISH PROVISIONS RELATING TO THE SELECTION OF AN  
13 ECONOMIST, TO ESTABLISH PROVISIONS RELATING TO THE WORK TO BE PERFORMED  
14 BY SUCH ECONOMIST, TO ESTABLISH PROVISIONS RELATING TO CERTAIN FIND-  
15 INGS, TO ESTABLISH PROVISIONS RELATING TO A FILING WITH THE STATE TAX  
16 COMMISSION, TO ESTABLISH PROVISIONS RELATING TO CERTAIN ACCOUNTS, TO  
17 PROVIDE FOR DEPOSIT OF CERTAIN MONEYS, TO ESTABLISH PROVISIONS RELATING  
18 TO THE PAYMENT OF CERTAIN AMOUNTS, TO ESTABLISH PROVISIONS RELATING TO  
19 CONTINUOUSLY APPROPRIATED AMOUNTS, TO ESTABLISH PROVISIONS RELATING  
20 TO CERTAIN BONDS OR NOTES TO FUND AN APPROVED PROJECT, TO PROVIDE THAT A  
21 PROJECT SHALL BE CONSTRUCTED EXPEDITIOUSLY AND TO PROVIDE THAT CERTAIN  
22 MONEYS SHALL REVERT TO THE GENERAL FUND.  
23

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

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

28 63-3642. TRANSPORTATION AND ECONOMIC DEVELOPMENT ZONES -- DEFINI-  
29 TIONS. As used in this section, the following terms shall have the following  
30 meanings:

31 (1) "Approved state highway project" means a state highway project  
32 jointly identified and approved by the Idaho department of commerce and  
33 the Idaho transportation board as provided in this chapter. Such approved  
34 state highway project shall be restricted to improvements to a state highway  
35 system as defined in section 40-120, Idaho Code, in which such expendi-  
36 tures for improvements shall be not less than one hundred million dollars  
37 (\$100,000,000). An approved state highway project shall include those costs  
38 directly associated with the state highway project but shall not include  
39 any improvement not within the right-of-way of the proposed state highway  
40 improvement other than improvements necessary to facilitate the connection  
41 to other state highways or an interstate.

1 (2) "Approved state highway project account" means an account estab-  
2 lished in the state treasury for each approved state highway project, into  
3 which shall be deposited from the sales tax, amounts equal to the amount of  
4 revenue positive economic impacts accepted by the state tax commission as  
5 provided for in section 63-3643, Idaho Code, which shall be held and con-  
6 tinuously appropriated as provided for in section 63-3643(7), Idaho Code,  
7 for the purpose of funding improvements to a specific approved state highway  
8 project, including any debt service therefor.

9 (3) "Base year" shall mean the twelve (12) month period preceding the  
10 approval of an approved state highway project account.

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

13 (5) "Bond issuer" shall mean an entity determined by the Idaho trans-  
14 portation department to possess the appropriate accreditation and experi-  
15 ence for issuing bonds, notes or other financial instruments necessary to  
16 finance an approved state highway project in the state of Idaho.

17 (6) "Capitalized interest" means interest for a bond which is included  
18 as part of the proceeds of the bond and meets any applicable federal tax law  
19 requirements.

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

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

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

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

33 (11) "Revenue positive sales tax impacts" means the estimated calcula-  
34 tion of increased sales and use tax revenues to be collected by the state  
35 within the transportation and economic development zone over and above the  
36 base year collections. Such increased revenues shall be limited to new re-  
37 tail sales tax revenues and construction sales and use tax revenues.

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

47 (13) "Transportation and economic development zone" means the boundary  
48 agreed to by the Idaho transportation board and the Idaho department of com-  
49 merce, which agreement shall be filed with, and accepted by, the Idaho state  
50 tax commission. Prior to the acceptance of such transportation and economic

1 development zone by the Idaho state tax commission, a majority of the polit-  
 2 ical subdivisions located within the proposed transportation and economic  
 3 development zone shall, by resolution, approve the formation of the zone.

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

7 63-3643. ESTABLISHMENT OF TRANSPORTATION AND ECONOMIC DEVELOPMENT  
 8 ZONE, ADMINISTRATION AND CREATION OF APPROVED STATE HIGHWAY PROJECT AC-  
 9 COUNT. (1) The Idaho transportation board and the Idaho department of  
 10 commerce, through its director, are hereby authorized to enter into agree-  
 11 ments for the creation of transportation and economic development zones  
 12 which encompass and surround an approved state highway project provided the  
 13 following criteria are met:

14 (a) The approved state highway project is regional in nature, connects  
 15 multiple political subdivisions and improves one (1) or more state  
 16 highways;

17 (b) The transportation and economic development zone will generate  
 18 cumulative revenue positive sales tax impacts each year after the base  
 19 year over and above the amount for the base year which is estimated to be  
 20 an amount not less than the debt service coverage ratio, giving credit  
 21 for any capitalized interest deemed necessary to finance the construc-  
 22 tion of the approved state highway project. In addition, the total  
 23 revenue positive economic impacts shall be not less than two (2) times  
 24 greater than the estimated total construction cost of the approved  
 25 state highway project during the following thirty (30) year period af-  
 26 ter initiation of construction.

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

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

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

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

39 (c) Whether the approved state highway project will have controlled ac-  
 40 cess.

41 (3) Prior to the formation of a transportation and economic development  
 42 zone, the Idaho transportation board shall calculate the total project cost,  
 43 including appropriate contingencies, in current dollars as of the date of  
 44 the formation of the transportation and economic development zone for the  
 45 approved state highway project, prepare a construction and funding schedule  
 46 and submit the same to the bond issuer selected by the Idaho transportation  
 47 department to secure financing for the approved state highway project. The  
 48 bond issuer shall identify for the Idaho transportation board the type of  
 49 financing, including the proposed terms, the capitalized interest period,

1 the debt service schedule and the debt service coverage ratio, to be used  
2 to fund the construction of the approved state highway project. The Idaho  
3 transportation board and the Idaho department of commerce shall mutually  
4 select and engage an independent economist with educational credentials  
5 deemed sufficient by them. Such economist shall have experience in re-  
6 gional economic forecasting, evaluation of economic development potential,  
7 economic impact analysis, fiscal impact analysis and government revenue  
8 forecasting within the state of Idaho. Such economist shall consider his-  
9 torical and projected growth rates of the region, any comprehensive plans  
10 adopted by political subdivisions within the region, and plans or studies  
11 of any metropolitan planning organization within the region when forecast-  
12 ing the revenue positive sales tax impacts and revenue positive economic  
13 impacts. Said economist shall propose the boundaries of the transportation  
14 and economic development zone and calculate an estimate of all revenue pos-  
15 itive sales tax impacts and revenue positive economic impacts within the  
16 proposed boundaries of the transportation and economic development zone.  
17 The economist shall establish the boundaries for the transportation and  
18 economic development zone which produces cumulative revenue positive sales  
19 tax impacts after the base year which shall be at least sufficient to pay the  
20 estimated annual debt service and to meet the required debt service cover-  
21 age ratio on the bonds or notes to be issued to finance construction of the  
22 approved state highway project, taking into account capitalized interest.  
23 The economist shall also determine the projected minimum annual amount of  
24 such revenue positive sales tax impacts and report the same, which report  
25 shall be included in the agreement filed by the Idaho transportation board  
26 and the Idaho department of commerce, with the Idaho state tax commission.  
27 Such economist shall also perform an analysis and provide an estimate of  
28 all revenue associated with the revenue positive economic impacts from the  
29 construction of the approved state highway project and subsequent economic  
30 activity occurring during a thirty (30) year period after the establishment  
31 of the transportation and economic development zone. Such analysis shall  
32 be included in the agreement of the Idaho transportation board and the Idaho  
33 department of commerce.

34 (4) Upon the execution of the requisite agreements and approvals for  
35 the formation of the transportation and economic development zone and upon a  
36 finding that completion of the approved state highway project will generate  
37 cumulative revenue positive sales tax impacts, beginning in the year follow-  
38 ing the base year in an amount equal to or greater than the funds necessary  
39 to meet the debt service at the required debt service coverage ratio, taking  
40 into account any capitalized interest provided by the funding source, and  
41 upon a finding that during the following thirty (30) years subsequent to for-  
42 mation of the zone revenue positive economic impacts shall be in an amount  
43 which is not less than two (2) times greater than the estimated total con-  
44 struction cost of the approved state highway project, the Idaho transporta-  
45 tion board and the Idaho department of commerce shall include in their agree-  
46 ment the transportation and economic development zone boundaries and rev-  
47 enue positive sales tax impact and revenue positive economic impacts and the  
48 estimated annual dollar amount of each impact, which shall be filed with the  
49 Idaho state tax commission for acceptance. The Idaho state tax commission  
50 shall accept such transportation and economic development zone boundaries

1 and revenue positive sales tax impacts and revenue positive economic impacts  
2 within thirty (30) days of such submission.

3 (5) There is hereby created in the state treasury an approved state  
4 highway account for each approved state highway project. Said accounts  
5 shall be held separate and apart from any other sales tax accounts in the  
6 treasury and shall be administered as provided for herein.

7 (6) Within sixty (60) days of such formation and acceptance, the Idaho  
8 state tax commission shall begin depositing, on the first business day of  
9 each month from the state sales tax account into the applicable state highway  
10 project account, one twelfth (1/12) of the principal, interest and other  
11 amounts required for bonds, notes or other obligations relating to the ap-  
12 plicable approved state highway project account as accepted by the state  
13 tax commission pursuant to subsection (4) of this section, to be held to pay  
14 amounts required for the bonds, notes or other obligations issued by the  
15 approved bond issuer as certified pursuant to subsection (7) of this sec-  
16 tion. Said deposit to the applicable approved state highway project account  
17 shall be made from any then available sales tax revenues collected by the  
18 state tax commission and shall continue until the said annual amount has been  
19 deposited. Upon completion of the payment in full of the said bonds, notes  
20 or other obligations for the applicable approved state highway project,  
21 such deposits shall cease being deposited into the applicable state highway  
22 project account.

23 (7) There are hereby continuously appropriated from the applicable  
24 state highway project account such amounts as, from time to time, shall be  
25 certified by the bond issuer to the state treasurer and the state tax com-  
26 mission as necessary for payment of principal, interest and other amounts  
27 required for bonds, notes or other obligations for the applicable approved  
28 state highway project.

29 (8) Such bonds or notes to fund a specific approved state highway  
30 project shall include, but not be limited to, financing through any other  
31 federal highway program, and the Idaho transportation board, in conjunc-  
32 tion with the qualified bond issuer, may apply for such financing or for  
33 guarantees or other assistance for payment of the debt service on federally  
34 authorized highway program financing, governmental bonds or private activ-  
35 ity bonds or any other Idaho transportation board approved borrowing.

36 (9) An approved state highway project shall be constructed in an expe-  
37 ditious manner. Any deposits made into the applicable state highway project  
38 account not expended within ten (10) years from the deposit thereof to fund  
39 debt service or utilized as a direct payment of applicable approved state  
40 highway project costs shall revert to the general fund of the state of Idaho.