

IN THE SENATE

SENATE BILL NO. 1360, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO HIGHWAY FUNDING; AMENDING SECTION 40-709, IDAHO CODE, TO PROVIDE  
2 REFERENCE TO A PETITION FOR HIGHWAY MAINTENANCE; AMENDING CHAPTER 7,  
3 TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-709A, IDAHO  
4 CODE, TO PROVIDE FOR A PETITION FOR HIGHWAY MAINTENANCE, TO PROVIDE  
5 REQUIREMENTS, TO PROVIDE DUTIES OF THE IDAHO TRANSPORTATION BOARD AND  
6 IDAHO TRANSPORTATION DEPARTMENT, TO PROVIDE FOR A HEARING UPON CERTAIN  
7 CIRCUMSTANCES, TO PROVIDE THE EFFECT OF GRANTING OR DENYING A PETITION,  
8 TO PROVIDE FOR TERMINATION OR MODIFICATION OF A GRANTED PETITION AND TO  
9 PROVIDE THE EFFECT OF AN ACTION REGARDING THE GRANTING OR DENIAL OF A  
10 PETITION; AND DECLARING AN EMERGENCY.  
11

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

13 SECTION 1. That Section 40-709, Idaho Code, be, and the same is hereby  
14 amended to read as follows:

15 40-709. APPORTIONMENT OF FUNDS FROM HIGHWAY DISTRIBUTION ACCOUNT TO  
16 LOCAL UNITS OF GOVERNMENT. Commencing July 1, 1999, and each fiscal year  
17 thereafter, from the moneys appropriated from the highway distribution ac-  
18 count to local units of government, three hundred twenty-six thousandths of  
19 one percent (0.326%) is appropriated to the local highway technical assis-  
20 tance council, and the balance of the appropriation shall be distributed as  
21 follows:

22 (1) Thirty percent (30%) shall be apportioned among incorporated and  
23 specially chartered cities, in the same proportion as the population of the  
24 incorporated or specially chartered city bears to the total population of  
25 all the incorporated or specially chartered cities as shown by the last regu-  
26 lar or special federal census.

27 (2) The remainder shall be apportioned:

28 (a) Ten percent (10%) shall be divided equally among all counties of the  
29 state.

30 (b) Forty-five percent (45%) shall be divided among the counties of the  
31 state in the proportion that the amount collected from motor vehicle  
32 registrations in each county during the last calendar year bears to the  
33 total amount of those collections in all counties in the state.

34 (c) Forty-five percent (45%) shall be divided among the counties of the  
35 state in the proportion that the number of miles of improved highways  
36 in the county highway system of each county bears to the total number of  
37 miles of improved highways in the county highway systems of all coun-  
38 ties in the state. The director is directed to certify to the state con-  
39 troller, on or before January 1 of each year, the number of miles of im-  
40 proved highways in each county.

41 (3) Moneys paid to counties with highway districts shall be further  
42 distributed by the state as follows:

1 (a) Ten percent (10%) shall be divided equally among the county, if the  
2 county maintains any highways, and the highway districts;

3 (b) Forty-five percent (45%) shall be divided among the county, if the  
4 county maintains any highways, and the highway districts of the county  
5 in the proportion that the amount collected from motor vehicle regis-  
6 trations in each area designated during the last calendar year bears to  
7 the total amount of those collections in the entire county;

8 (c) Forty-five percent (45%) shall be divided among the county, if the  
9 county maintains any highways, and the highway districts in the propor-  
10 tion that the number of miles of improved highways in the county and the  
11 highway districts bear to the total number of miles of improved highways  
12 in the entire county highway system.

13 (4) The state controller shall ascertain the sums set for the appor-  
14 tionment and remit to the local governments their share of the amount com-  
15 puted. The apportionment hereby made shall be remitted to the local govern-  
16 ments not later than January 25, April 25, July 25, and October 25 of each  
17 year.

18 (5) Moneys paid to incorporated or specially chartered cities shall be  
19 expended by the governing bodies of those cities solely in the construction  
20 and maintenance of highways within their corporate limits and to meet the in-  
21 terest and sinking fund requirements for the current year on any unpaid bonds  
22 issued by those cities for highway and bridge purposes, or refunding bonds  
23 issued to take up those bonds.

24 (6) Each highway district receiving an apportionment from the highway  
25 distribution account shall apportion those funds as follows: To the inter-  
26 est and sinking fund of the district, an amount as may be necessary to meet  
27 the interest and sinking fund requirements for that year on any unpaid bonds  
28 issued by that district, and any balance of those funds shall be used for  
29 highway and bridge maintenance and construction. Each district may expend  
30 all or any portion of the balance of those funds in the construction and main-  
31 tenance of state highways within the district.

32 (7) No part of highway funds or any apportionment from it shall ever be  
33 used for any purposes other than those provided in this section and in sec-  
34 tion 40-709A, Idaho Code, except as specifically otherwise provided. At the  
35 end of any fiscal year an unexpended balance of highway funds shall be car-  
36 ried forward and retained and subsequently applied to the maintenance and  
37 construction of highways or the payment of bond interest and principal and  
38 sinking fund requirements.

39 SECTION 2. That Chapter 7, Title 40, Idaho Code, be, and the same is  
40 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
41 ignated as Section 40-709A, Idaho Code, and to read as follows:

42 40-709A. PETITION FOR HIGHWAY MAINTENANCE. (1) Any county or highway  
43 district, or twenty-five (25) qualified electors of any county or highway  
44 district with jurisdiction over any portion of the subject highway, may pe-  
45 tition the Idaho transportation board to take action, as provided in this  
46 section, to provide for the maintenance of a highway or portion thereof under  
47 the jurisdiction of a county or highway district.

48 (2) The petition and supporting materials shall establish that the  
49 county or highway district with jurisdiction over the subject highway, or

1 relevant portion thereof, is obligated to maintain the highway and is fail-  
2 ing to provide adequate maintenance for safe motorist traffic. The petition  
3 shall not be based on failure to improve the highway or to expand mainte-  
4 nance beyond what historically has been provided, unless it is necessary to  
5 address safety or operational conditions in order to provide safe motorist  
6 traffic. The petition shall also document the petitioner's efforts to com-  
7 municate its concerns to the subject county or highway district and explain  
8 why the issue could not be resolved. The petitioner shall provide notice to  
9 the subject county or highway district, including a copy of the petition and  
10 all supporting materials.

11 (3) The Idaho transportation department shall publish notice of the  
12 petition as set forth in section 40-206, Idaho Code, and shall provide the  
13 subject county or highway district a reasonable opportunity to respond to  
14 the petition, to take corrective action, to explain any extenuating cir-  
15 cumstances or to otherwise address the concerns presented in the petition.  
16 Based on all information available to it, including such independent inves-  
17 tigation as it deems appropriate, the Idaho transportation department shall  
18 make a recommendation for action to the Idaho transportation board.

19 (4) The Idaho transportation board shall review the petition and the  
20 recommendation of the Idaho transportation department.

21 (5) If the Idaho transportation board determines that the petition is  
22 without merit, it may deny the petition without hearing and issue written  
23 findings and conclusions stating its reasons therefor.

24 (6) If the Idaho transportation board determines that the petition may  
25 have merit, it shall hold a hearing on the matter and allow all affected enti-  
26 ties and interested persons an opportunity to be heard.

27 (7) Following the hearing provided in subsection (6) of this section,  
28 the Idaho transportation board shall either grant or deny the petition and  
29 issue findings and conclusions stating its reasons therefor. The petition  
30 shall be granted only upon a finding that the public safety, health or wel-  
31 fare would be endangered because the subject county or highway district is  
32 inappropriately and unreasonably failing to maintain a highway or portion  
33 thereof that it is obligated to maintain. In determining the reasonableness  
34 of the subject county or highway district's actions with respect to the high-  
35 way, the Idaho transportation board shall take into account the authority  
36 of the county or highway district to temporarily close a highway, the avail-  
37 ability of funding and other considerations addressed in sections 40-1311  
38 and 40-1315, Idaho Code. The Idaho transportation board shall not approve a  
39 petition with respect to a highway or portion thereof that has been vacated  
40 or is subject to an ongoing vacation or validation proceeding.

41 (8) If the petition is granted, the transportation department may un-  
42 dertake itself the maintenance of the highway or portion thereof or it may  
43 contract with another political subdivision to undertake the maintenance.  
44 In either case, the transportation department shall certify to the state  
45 controller the actual cost of maintenance undertaken by the transportation  
46 department or by the contracted political subdivision. The state controller  
47 shall pay into the state highway account of the Idaho transportation depart-  
48 ment or directly to the contracted political subdivision the actual costs  
49 incurred as certified by the transportation department. Such funds shall be  
50 deducted from the funds that would otherwise have been allocated pursuant to

1 section 40-709, Idaho Code, to the county or highway district that failed to  
2 provide adequate maintenance.

3 (9) Political subdivisions that acquire funds for road work of any type  
4 either pursuant to this section or by separate voluntary agreement with  
5 another political subdivision or the state are hereby authorized to expend  
6 such funds outside of their jurisdictional boundaries notwithstanding any  
7 other provision of law.

8 (10) A county or highway district that has been the subject of a peti-  
9 tion granted pursuant to this section may request a termination or modifi-  
10 cation of the arrangement authorized by the Idaho transportation department  
11 for maintenance by the Idaho transportation department or another entity. A  
12 request for termination shall be accompanied by appropriate documentation  
13 showing that the requesting entity is prepared to resume its maintenance re-  
14 sponsibility for the highway. The Idaho transportation board shall consider  
15 the request for termination or modification, taking into account the infor-  
16 mation presented by the requesting entity and any other information avail-  
17 able to the Idaho transportation board. If the Idaho transportation board  
18 determines that the concerns giving rise to the petition have been addressed  
19 and the entity is committed to resume maintenance of the highway, the Idaho  
20 transportation board shall terminate its prior action and allow the entity  
21 to resume responsibility for maintenance of the highway upon the beginning  
22 of the next fiscal year. The Idaho transportation board may also modify the  
23 existing arrangement for funding of maintenance.

24 (11) A decision by the Idaho transportation board granting or denying a  
25 petition or request under this section is a final agency action for purposes  
26 of section 67-5270(2), Idaho Code.

27 SECTION 3. An emergency existing therefor, which emergency is hereby  
28 declared to exist, this act shall be in full force and effect on and after its  
29 passage and approval.