

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 619

BY WAYS AND MEANS COMMITTEE

AN ACT

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

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

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

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

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

(2) The remainder shall be apportioned:

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

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

(c) Forty-five percent (45%) shall be divided among the counties of the state in the proportion that the number of miles of improved highways in the county highway system of each county bears to the total number of miles of improved highways in the county highway systems of all counties in the state. The director is directed to certify to the state controller, on or before January 1 of each year, the number of miles of improved highways in each county.

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

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

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

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

(4) The state controller shall ascertain the sums set for the apportionment and remit to the local governments their share of the amount computed. The apportionment hereby made shall be remitted to the local governments not later than January 25, April 25, July 25, and October 25 of each year.

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

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

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

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

40-709A. PETITION FOR HIGHWAY MAINTENANCE. (1) Any county or highway district may petition the Idaho transportation board to take action, as provided in this section, to provide for the maintenance of a highway or portion thereof under the jurisdiction of a county or highway district.

(2) The petition and supporting materials shall establish the following facts:

(a) That the subject highway or relevant portion thereof provides the only practical access to a city, town or other residential area;

1 (b) That the county or highway district with jurisdiction over the sub-  
2 ject highway, or relevant portion thereof, is obligated to maintain the  
3 highway or relevant portion thereof;

4 (c) That said county or highway district historically has provided  
5 maintenance to the subject highway or relevant portion thereof suffi-  
6 cient to allow safe motorist access to the city, town or other residen-  
7 tial area; and

8 (d) Said county or highway district is now failing to provide main-  
9 tenance sufficient to allow safe motorist access to the city, town or  
10 other residential area.

11 The petition shall not be based on failure to improve the highway or to ex-  
12 pand maintenance beyond what historically has been provided. The petition  
13 shall also document the petitioner's efforts to communicate its concerns to  
14 the subject county or highway district and explain why the issue could not be  
15 resolved. The petitioner shall provide notice to the subject county or high-  
16 way district, including a copy of the petition and all supporting materials.

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

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

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

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

33 (7) Following the hearing provided in subsection (6) of this section,  
34 the Idaho transportation board shall either grant or deny the petition and  
35 issue findings and conclusions stating its reasons therefor. The petition  
36 shall be granted only upon a finding that the public safety, health or wel-  
37 fare would be endangered because the subject county or highway district is  
38 inappropriately and unreasonably failing to maintain a highway or portion  
39 thereof that it is obligated to maintain and that the facts set out in subsec-  
40 tion (2) (a), (b), (c) and (d) of this section have been established. In de-  
41 termining the reasonableness of the subject county or highway district's ac-  
42 tions with respect to the highway, the Idaho transportation board shall take  
43 into account the authority of the county or highway district to temporarily  
44 close a highway, the availability of funding and other considerations ad-  
45 dressed in sections 40-1311 and 40-1315, Idaho Code. The Idaho transporta-  
46 tion board shall not approve a petition with respect to a highway or portion  
47 thereof that has been vacated or is subject to an ongoing vacation or valida-  
48 tion proceeding.

49 (8) If the petition is granted, the transportation department may un-  
50 dertake itself the maintenance of the highway or portion thereof or it may

1 contract with another political subdivision to undertake the maintenance.  
2 In either case, the transportation department shall certify to the state  
3 controller the actual cost of maintenance undertaken by the transportation  
4 department or by the contracted political subdivision. The state controller  
5 shall pay into the state highway account of the Idaho transportation depart-  
6 ment or directly to the contracted political subdivision the actual costs  
7 incurred as certified by the transportation department. Such funds shall be  
8 deducted from the funds that would otherwise have been allocated pursuant to  
9 section 40-709, Idaho Code, to the county or highway district that failed to  
10 provide adequate maintenance.

11 (9) Political subdivisions that acquire funds for roadwork of any type  
12 either pursuant to this section or by separate voluntary agreement with  
13 another political subdivision or the state are hereby authorized to expend  
14 such funds outside of their jurisdictional boundaries notwithstanding any  
15 other provision of law.

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

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

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