

TITLE 40  
HIGHWAYS AND BRIDGES

CHAPTER 3  
IDAHO TRANSPORTATION BOARD

40-301. IDAHO TRANSPORTATION BOARD -- CREATION -- AUTHORITY. There is established the Idaho transportation board, which is vested with authority, control, supervision and administration of the department created and established by this title.

[40-301, added 1985, ch. 253, sec. 2, p. 595.]

40-302. BOARD -- MEMBERSHIP -- APPOINTMENT -- QUALIFICATION. The board shall be composed of seven (7) members to be appointed by the governor. Not more than four (4) members shall at any time belong to the same political party. Members shall be well informed and interested in the construction and maintenance of public highways and highway systems, and their selection and appointment shall be made solely with regard to the best interests of the various functions of the board. At least one (1) member shall have special training, experience or expertise in the field of aeronautical transportation. Each member at the time of his appointment shall have been a citizen, resident and taxpayer of the state of Idaho and of the district from which he is appointed for at least five (5) years. During his tenure of office no member shall hold or occupy any federal, state, county, or municipal elective or other appointive office, or any office in any political party.

[40-302, added 1985, ch. 253, sec. 2, p. 595; am. 1995, ch. 203, sec. 1, p. 696.]

40-303. CREATION OF DISTRICTS -- RESIDENCE OF BOARD MEMBERS -- TERM OF OFFICE. (1) For the purposes of selection of members of the board, the state of Idaho shall be divided into six (6) director districts as follows:

- (a) District No. 1. The counties of Benewah, Bonner, Boundary, Kootenai and Shoshone.
- (b) District No. 2. The counties of Clearwater, Idaho, Latah, Lewis and Nez Perce.
- (c) District No. 3. The counties of Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley and Washington.
- (d) District No. 4. The counties of Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls.
- (e) District No. 5. The counties of Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida and Power.
- (f) District No. 6. The counties of Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison and Teton.

(2) Each of the districts shall be represented by one (1) member appointed from that district. A seventh member of the board shall be appointed from the state at large and shall act as chairman of the board. The governor shall appoint all members and the members are subject to confirmation by the senate. The chairman of the board shall serve at the pleasure of the governor for an indefinite period. The terms of office of the members of the board representing the six (6) districts are as follows:

(a) One (1) member shall be appointed from district no. 1 to serve an initial term expiring January 31, 2001, and thereafter the term shall be for six (6) years;

(b) The member of the board from district no. 2 serving on the effective date of this act shall continue in office for the balance of the term to which he was appointed, January 31, 1998, and thereafter the term of office shall be six (6) years;

(c) One (1) member shall be appointed from district no. 3 to serve an initial term expiring January 31, 1997, and thereafter the term of office shall be six (6) years;

(d) The member of the board from district no. 4 serving on the effective date of this act shall continue in office for the balance of the term to which he was appointed, January 31, 2000, and thereafter the term shall be six (6) years;

(e) One (1) member shall be appointed from district no. 5 to serve an initial term expiring January 31, 1999, and thereafter the term shall be for six (6) years; and

(f) The member of the board from district no. 6 serving on the effective date of this act shall continue in office for the balance of the term to which he was appointed, January 31, 1996, and thereafter the term shall be for six (6) years.

The terms of the newly appointed members shall begin immediately upon their appointment and qualification. Each member shall hold office after the expiration of his own term until his successor has been appointed and qualified. Within fifteen (15) days after the expiration of a term, the governor shall appoint a successor and submit that appointment to the senate for confirmation. Should any member of the board resign, die, move from the district from which he was appointed, or be removed from office, the governor shall, within thirty (30) days, appoint a successor with like qualifications to serve for the remainder of the retiring member's unexpired term. If a vacancy occurs within forty-five (45) days after the convening of the legislature and the legislature is still in session, the governor shall make a nomination to fill the vacancy and submit it to the senate for their approval.

[40-303, added 1985, ch. 253, sec. 2, p. 595; am. 1995, ch. 203, sec. 2, p. 696.]

40-304. OATH OF OFFICE -- BOND. Each member of the board shall receive a certificate of appointment from the governor, and before entering upon the discharge of his official duties shall file with the secretary of state a declaration of the political party to which the board member belongs, and the member shall also be bonded to the state of Idaho in the time, form and manner prescribed by [chapter 8, title 59](#), Idaho Code.

[40-304, added 1985, ch. 253, sec. 2, p. 596.]

40-305. REMOVAL OF BOARD MEMBERS. The governor may remove any board member for incompetency, inefficiency, intemperance, misconduct in office, neglect or dereliction of duty. Charges in writing, setting forth fully and concisely the cause and grounds of removal, together with a citation directing the member within fifteen (15) days after the service of the charges and citation to appear and be afforded a public hearing in the office of the governor, shall be effected by delivering a copy of the charges to the member or mailing it by United States registered mail in a sealed envelope

with postage fully prepaid, addressed to the member at his last address of record. The appearance may be personal or by answer, and by counsel. Service of the charges and citation shall be complete if delivered personally at the time of delivery, and if mailed at the time of deposit in accordance with the provisions of the Code of Civil Procedure relating to service by mail. A complete transcript of the hearing, including the charges, answers, exhibits and testimony and proceedings, findings, decision and order, shall be made. If the member is removed from office, the completed transcript shall within ten (10) days after the decision be filed with the secretary of state.

[40-305, added 1985, ch. 253, sec. 2, p. 596.]

40-306. COMPENSATION AND REIMBURSEMENT FOR EXPENSES. Each member of the board shall be compensated as provided by section [59-509\(i\)](#), Idaho Code. The compensation and expenses shall be allowed and paid from the state highway and the state aeronautic's accounts.

[40-306, added 1985, ch. 253, sec. 2, p. 597; am. 1995, ch. 203, sec. 3, p. 697.]

40-307. OFFICE OF BOARD -- ORGANIZATION MEETINGS -- OFFICERS. The permanent offices of the board shall be maintained in Ada county, in suitable offices and quarters, with equipment, records and supplies as may be deemed necessary to carry out the provisions of this title. The members of the board shall select a vice chairman at the February meeting of each year, and the board shall adopt a seal having upon it the words, "Idaho Transportation Board--State of Idaho." The secretary of the board shall have care and custody of the seal. The board shall appoint a secretary and fix his compensation. The secretary shall hold office subject to the pleasure of the board, and carry out administrative duties as delegated to him. For the administration of their functions the board may employ other employees and personnel as may be deemed necessary, prescribe their duties, and fix their compensation.

[40-307, added 1985, ch. 253, sec. 2, p. 597; am. 1995, ch. 203, sec. 4, p. 697; am. 2001, ch. 183, sec. 13, p. 624.]

40-308. MEETINGS -- QUORUM. The board shall hold not less than twelve (12) regular meetings each year, on a day of each month as the board shall determine, unless a legal holiday, then on the next ensuing business day, for the purpose of transacting business as may come before it. The chairman of the board shall preside over all meetings, except that he shall only be permitted to vote in the case of a tie vote. In the absence of the chairman, the vice chairman shall preside over meetings, except that he shall have full voting privileges. Additional regular meetings may be held as the board shall determine in its by-laws, rules and regulations. Special meetings of the board may be called at any time and from time to time by four (4) members of the board, and on the written request of the director, showing the necessity and purpose for a meeting. The board chairman may call a special meeting specifying the time, place and purpose of the meeting. The secretary shall cause due notice to be given to each member, either personally or by telephone, mail or telegraph, of the time, place and purpose of all special and regular meetings, and upon his failure so to do, notice may be given either by

the chairman or the four (4) members concurring in calling any meeting. Any meeting of the board at which all of the members are present shall be as valid as if held pursuant to proper notice, and should a meeting be held without notice when all members are not present, if the absent member or members shall have signed a waiver, or shall subsequently sign the minutes of the meeting, it shall be as valid and binding as though called upon due notice. A majority of the members of the board shall constitute a quorum and a majority of all members of the board shall be necessary for the authorization of any act by the board, except as otherwise herein provided.

[40-308, added 1985, ch. 253, sec. 2, p. 597; am. 1995, ch. 203, sec. 5, p. 698.]

40-309. POWERS AND DUTIES -- VESTED POWERS. The board is vested with the following functions, powers and duties:

(1) To contract fully, in the name of the state of Idaho, with respect to the rights, powers and duties vested in the board by this title.

(2) Sue and be sued in its own name.

[40-309, added 1985, ch. 253, sec. 2, p. 597.]

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

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

(a) In determining which highways or section of highways shall be a part of the state highway system, the board shall consider the relative importance of each highway to cities, existing business, industry and enterprises and to the development of cities, natural resources, industry and agriculture and be guided by statistics on existing and projected traffic volumes. The board shall also consider the safety and convenience of highway users, the common welfare of the people of the state, and of the cities within the state and the financial capacity of the state of Idaho to acquire rights-of-way and to construct, reconstruct and maintain state highways. In making a determination, the board must, before it can abandon, relocate, or replace by a new highway, any highway serving or traversing any city, or the area in which the city is located, specifically find and determine that the benefits to the state of Idaho are greater than the economic loss and damage to the city affected. No highway serving or traversing any city shall be abandoned, relocated or replaced by a new highway serving the area in which a city is located without the board first holding a public hearing in that city. The abandonment shall proceed as set forth in section [40-203B](#), Idaho Code.

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

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

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

(5) Establish standards for the location, design, construction, reconstruction, alteration, extension, repair and maintenance of state highways, provided that standards of state highways through local highway jurisdictions shall be coordinated with the standards in use for the systems of the respective local highway jurisdictions. The board shall make agreements with local highway jurisdictions having within their limits state highway sections in the category described in section [40-502](#), Idaho Code, and provide for an equitable division of the maintenance of those sections. The board may also, in the interest of economy and efficiency, arrange to have any or all of the state highway sections within local highway jurisdictions maintained by those local highway jurisdictions, the cost of the work as limited by section [40-502](#), Idaho Code, to be reimbursed by the state.

(6) Cause to be made and kept, surveys, studies, maps, plans, specifications and estimates for the alteration, extension, repair and maintenance of state highways, and so far as practicable, of all highways in the state, and for that purpose to demand and to receive reports and copies of records from county commissioners, commissioners of highway districts, county engineers and directors of highways and all other highway officials within the state.

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

(8) Expend funds appropriated for construction, maintenance and improvement of state highways.

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

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

(11) Designate main traveled state highways as through highways. The traffic on through highways shall have the right-of-way over the traffic on any other highway intersecting with it, provided, that at the intersection of two (2) through highways the board shall determine which traffic shall have the right-of-way.

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

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

(14) Upon certification and requisition of an appropriate board, commission, governing body, or official head of any state institution and on the approval of the governor, showing the same to be necessary, construct, alter, repair, and maintain the roadways in, through, and about the grounds of

state institutions. The construction, alteration, repair and maintenance shall be accomplished and paid for from the state highway account in accordance with the provisions of [chapter 7, title 40](#), Idaho Code. This provision shall not be construed to divest any board, commission, governing body, or official head of an institution their constitutional or statutory powers.

[40-310, added 1985, ch. 253, sec. 2, p. 598; am. 1998, ch. 258, sec. 1, p. 858; am. 2013, ch. 141, sec. 1, p. 336.]

40-311. POWERS AND DUTIES -- PROPERTY. The board shall:

(1) Purchase, exchange, condemn or otherwise acquire, any real property, either in fee or in any lesser estate or interest, rights-of-way, easements and other rights and rights of direct access from the property abutting highways with controlled access, deemed necessary by the board for present or future state highway purposes. The order of the board that the land sought is necessary for such use shall be prima facie evidence of that fact.

(2) Cooperate with and receive donations and aid from private sources in the form of improvements to state owned property.

(3) Purchase, lease or otherwise acquire and develop lands for the purpose of securing highway making materials, and purchase, lease or otherwise acquire mill and factory sites and construct, equip and operate mills and factories for the reduction and manufacture of highway making materials.

(4) Sell, exchange, or otherwise dispose of and convey, in accordance with law, any real property, other than public lands which by the constitution and laws of the state of Idaho are placed under the jurisdiction of the state land board, or parts of them, together with appurtenances. When in the opinion of the board the real property and/or appurtenances are no longer needed for state highway purposes, dispose of any surplus materials and by-products from the real property and appurtenances.

(5) Make a lump sum payment with funds available for acquisition, when irrigable lands served or to be served by an irrigation works and system of an organization, whether incorporated or unincorporated, existing for the purpose of furnishing water for irrigation, are acquired by the board. The cost and expense of the acquisition of those lands for highway purposes shall be in an amount sufficient to pay the pro rata share of the organization's indebtedness, if any, including the organization's indebtedness to the United States or any public or private lending agency, allocable to the lands acquired by the board, together with interest on the pro rata share of the indebtedness in the event the indebtedness shall not be callable in advance of maturity. If the lands acquired by the board and the construction of a highway on those lands shall intersect the irrigation works and system of the organization, then a further sum shall be paid the organization sufficient for the value of the property acquired by the board, and the severance damage to the irrigation works and system, including the damage resulting from the interference and impairment of the operation of the works and system.

[40-311, added 1985, ch. 253, sec. 2, p. 601.]

40-312. POWERS AND DUTIES -- RULES AND REGULATIONS. The board shall:

(1) Prescribe rules and regulations affecting state highways and turnpike projects and enforce compliance with those rules and regulations.

(2) Establish rules and regulations for the expenditure of all moneys appropriated or allotted by law to the department or the board. The board shall cooperate with the counties and highway districts in the expenditure

of funds and shall establish a uniform system of accounting in the expenditure of moneys and a uniform method for allocation of funds by counties and highway districts as shall be necessary in the construction and maintenance of highways by counties and districts in cooperation with the state and the United States, or either, but the initiatory power of expenditure of any of those moneys shall rest with the county or district in which expenditure of the moneys mentioned is to be made.

(3) Make reasonable regulations for the installation, construction, maintenance, repair, renewal and relocation of facilities of any utility or communication transmitting entity, in, on, along, over, across, through or under any project on the federal-aid primary or secondary systems or on the interstate system, including extensions within urban areas. Whenever the board shall determine, after notice and opportunity for hearing, that it is necessary that any facilities which now are, or hereafter may be, located in, on, along, over, across, through or under any federal-aid primary or secondary system or on the interstate system, including extensions within urban areas, should be relocated, the utility owning or operating the facilities shall relocate them in accordance with the order of the board. In case of any relocation of facilities, the utility owning or operating the facilities, its successors or assigns, may maintain and operate the facilities, with the necessary appurtenances, in the new location or locations.

(4) Prescribe and enforce regulations for the erection and maintenance of advertising structures permitted by sections [40-1909](#), [40-1913](#) and [40-1914](#), Idaho Code, designed to protect the safety of the users of the highway and otherwise to achieve the objectives set forth in section [40-1903](#), Idaho Code, and consistent with the national policy set forth in 23 U.S.C. 131 and the national standards promulgated by the secretary of transportation. The board shall not prescribe or enforce rules or regulations that are more restrictive than those authorized under 23 U.S.C. 131. Proceedings for review of any action taken by the board pursuant to this section shall be instituted under the provisions of [chapter 52, title 67](#), Idaho Code.

(5) Prescribe rules and regulations to implement the provisions of [chapter 20, title 40](#), Idaho Code, and other rules and regulations relating to relocation assistance as may be necessary under existing federal laws and rules and regulations promulgated thereunder. Rules and regulations shall include provisions relating to:

(a) Standards for decent, safe and sanitary dwellings;

(b) Eligibility of displaced persons for relocation assistance payments, procedural methods whereby persons may make application for and claim payments and the amounts of them; and

(c) Other rules and regulations consistent with the provisions of [chapter 20, title 40](#), Idaho Code, as are considered necessary or appropriate to carry out the provisions of that chapter.

(6) Establish by rule a statewide comprehensive plan for public transportation.

(7) Prescribe rules and regulations to encourage the use of recycled materials in highway construction and repair projects.

[40-312, added 1985, ch. 253, sec. 2, p. 602; am. 1992, ch. 149, sec. 3, p. 448; am. 1992, ch. 337, sec. 1, p. 1009; am. 2014, ch. 97, sec. 24, p. 286.]

40-313. POWERS AND DUTIES -- BEAUTIFICATION AND INFORMATION. The board shall:

(1) Furnish, erect and maintain, whenever necessary for public safety and convenience, suitable signs, markers, signals and other devices to control, guide and warn pedestrians and vehicular traffic entering or traveling upon the state highway system.

(2) Forbid, restrict or limit the erection of unauthorized signs, billboards or structures on the right-of-way of any state highway, and remove therefrom and destroy any unauthorized signs existing on them.

(3) Acquire, maintain and improve areas adjacent to highways on the state highway system for the restoration, preservation, and enhancement of scenic beauty, for use as informational sites, and for rest and recreation of the traveling public. The areas shall be parallel to and contiguous with the highway and shall not exceed a width of one thousand (1,000) feet from the adjacent right-of-way line. The board may acquire these areas in fee, easement, or other interest as may be determined by the board to be reasonably necessary to accomplish the purposes of [chapter 15, title 40](#), Idaho Code. Such acquisition is declared to be for a highway use, and may be by gift, purchase, exchange or eminent domain, and if the latter be necessary, it shall be carried out in the same manner as now provided by law for acquisition of right-of-way for state highways.

(4) Screen, if feasible, any junkyard lawfully in existence on March 20, 1967, which are within one thousand (1,000) feet of the nearest edge of the right-of-way and visible from the main traveled way of any highway on the interstate or primary system and not located within an industrial area, zoned or unzoned. The responsibility of the board for screening junkyards is limited to the size of the junkyards and height of storage existing as of March 20, 1967. Any screening, after March 20, 1967, required by an increase in the size of the junkyard or the height of the storage in it shall be the responsibility of the owner and will be done at his expense. The board is authorized to acquire by purchase, gift or the power of eminent domain the lands or interest in lands as may be necessary to provide adequate screening of junkyards, but eminent domain proceedings may not be undertaken to obtain adjacent lands unless they are owned by the owner of the junkyard or the lands of the junkyard are inadequate for this purpose. When the board determines that the topography of the land will not permit adequate screening of junkyards within one thousand (1,000) feet of the nearest edge of the right-of-way of the highway on the interstate or primary system or the screening of the junkyards would not be economically feasible, the board must acquire by gift, purchase or the power of eminent domain, any interests necessary to secure the removal or disposal of the junkyard.

[40-313, added 1985, ch. 253, sec. 2, p. 603.]

40-314. POWERS AND DUTIES -- DEPARTMENTAL. The board shall:

(1) Establish departmental internal structures deemed necessary for the full and efficient administration of this title.

(2) Exercise exclusive control over the employment, promotion, reduction, dismissal and compensation of all employees of the department.

(3) Exercise any other powers and duties, including the adoption of rules and regulations, deemed necessary to fully implement and carry out the provisions of this title and the control of the financial affairs of the board and the department.

[40-314, added 1985, ch. 253, sec. 2, p. 603.]

40-315. POWERS AND DUTIES -- FEDERALLY-FUNDED HIGHWAY PROJECT FINANCING. (1) In order to address the increasing need for timely improvements to Idaho's highway transportation infrastructure, the board may:

(a) Enter into agreements with the Idaho housing and finance association in connection with the funding of highway transportation projects qualifying for reimbursement from federal funds.

(b) Approve and recommend federal highway transportation projects to the Idaho housing and finance association for financing by the association. Such federal highway transportation projects shall be eligible for federal-aid debt financing under [chapter 1, title 23](#), United States Code, and approval by the federal highway administration as an advanced construction (AC) project thereunder. The board shall select and designate such transportation projects to be funded with bond proceeds from the following list of eligible projects:

ROUTE	PROJECT DESCRIPTION
US-95	SH-1 to Canadian border
US-95	Garwood to Sagle
US-95	Worley to Setters
US-95	Thorn Creek to Moscow
US 95	Smokey Boulder to Hazard Creek
SH-16 Ext	I-84 to South Emmett
I-84	Caldwell to Meridian
I-84	Orchard to Isaacs Canyon
US-93	Twin Falls alternate route and new Snake River crossing
SH-75	Timmerman to Ketchum
US-20	St. Anthony to Ashton
US-30	McCammon to Soda Springs

(c) On and after July 1, 2008, all allocations of GARVEE bond proceeds shall be the sole responsibility and duty of the Idaho transportation board. The legislature shall have authority to approve a total GARVEE bond amount on an annual basis. However, the Idaho transportation board is directed to allocate bond revenue only among the projects listed in subsection (1) (b) of this section. In making its funding allocation for projects, the board shall take into consideration: the cost of the project and whether or not that project could be financed without bonding; whether the project is necessary to facilitate the traffic flow on vital transportation corridors; and whether the project is necessary to improve safety for the traveling public. On and after July 1, 2008, the board shall use due care in selecting projects for bonding and shall balance and coordinate the use of bonding with the use of highway construction moneys.

Notwithstanding the provisions of subsection (1) (b) of this section wherein eligible projects are listed for selection and designation by the board, if any of the designated projects are deemed to be ineligible by the board, the board shall have the authority to replace those projects with other projects listed in subsection (1) (b) of this section.

(2) Prior to issuance by the Idaho housing and finance association of any bonds or notes to finance highway transportation projects, the board shall certify to the association that sufficient federal transportation funds are available to make any payments required for such bonds or notes.

(3) The board shall limit annual, total cumulative debt service and other bond-related expenses as follows:

(a) In the 2006 legislative session for the fiscal year 2007 budget, total cumulative debt service and other bond-related expenses on federally-funded highway project financing shall be no more than twenty percent (20%) of annual federal-aid highway apportionments.

(b) In the 2007 legislative session for the fiscal year 2008 budget, total cumulative debt service and other bond-related expenses on federally-funded highway project financing shall be no more than twenty percent (20%) of annual federal-aid highway apportionments.

(c) In the 2008 legislative session for the fiscal year 2009 budget, total cumulative debt service and other bond-related expenses on federally-funded highway project financing shall be no more than twenty percent (20%) of annual federal-aid highway apportionments.

(d) In the 2009 legislative session for the fiscal year 2010 budget, total cumulative debt service and other bond-related expenses on federally-funded highway project financing shall be no more than twenty percent (20%) of annual federal-aid highway apportionments.

(e) In the 2010 legislative session for the fiscal year 2011 budget, total cumulative debt service and other bond-related expenses on federally-funded highway project financing shall be no more than thirty percent (30%) of annual federal-aid highway apportionments.

(f) Beginning with the 2011 legislative session for the fiscal year 2012 budget, or for any year thereafter, the thirty percent (30%) limit may be exceeded, but only by affirmative action of both the house of representatives and the senate, and with the approval of the governor.

(4) In the event the board selects and designates to be funded with bond proceeds any of the transportation projects listed in subsection (1) of this section, and prior to entering into agreements with the Idaho housing and finance association as provided herein, the Idaho transportation department, as part of its annual budget request prepared pursuant to section [67-3502](#), Idaho Code, shall include a request for bonding authority as a separate item of its budget request. This request for bonding authority shall include a list of planned highway transportation projects to be financed with such bond financing during the next succeeding fiscal year.

(5) By June 30 of each year, the board shall submit a report to the legislature concerning projects currently under construction using the bond financing as authorized by the provisions of this section, and shall include a list of planned highway transportation projects to be financed with such bond financing during the next succeeding fiscal year.

[40-315, added 2005, ch. 378, sec. 3, p. 1218; am. 2007, ch. 363, sec. 13, p. 1095; am. 2017, ch. 322, sec. 7, p. 842.]

40-316. POWERS AND DUTIES -- REPORTS. The board shall:

(1) Make annually, on or before December 1 of each year and at other times as the governor may require, reports in writing to the governor concerning the condition, management and financial transactions of the department.

[40-316, added 1985, ch. 253, sec. 2, p. 604.]

40-317. POWERS AND DUTIES -- COOPERATIVE EFFORTS. The board may:

(1) Cooperate with, and receive and expend aid and donations from, the federal government for transportation purposes and receive and expend donations from other sources for the construction and improvement of any state highway or transportation project or any project on the federal-aid primary or secondary systems or on the interstate system, including extensions of them within urban areas; and, when authorized or directed by any act of congress or any rule or regulation of any agency of the federal government, expend funds donated or granted to the state of Idaho by the federal government for that purpose, upon highways and bridges not in the state highway system.

(2) Contract jointly with counties, cities, and highway districts for the improvement and construction of state highways.

(3) Cooperate with the federal government, counties, highway districts, and cities for construction, improvement, and maintenance of secondary or feeder highways not in the state highway system.

(4) Cooperate financially or otherwise with any other state or any county or city of any other state, or with any foreign country or any province or district of any foreign country, or with the government of the United States or its agencies, or private agencies or persons, for the erecting, construction, reconstructing, and maintaining of any bridge, trestle, or other structure for the continuation or connection of any state highway across any stream, body of water, gulch, navigable water, swamp or other topographical formation requiring any such structure and forming a boundary between the state of Idaho and any other state or foreign country, and for the purchase or condemnation or other acquisition of right-of-way.

(5) Serve as the state's representative in the designation of forest highways within the state.

(6) Negotiate and enter into bilateral agreements with designated representatives of contiguous states. Agreements may provide for the manning and operation of jointly occupied ports of entry, for the collection of highway user fees, registration fees and taxes which may be required by law, rule and regulation. Agreements may further provide for the collection of these fees and taxes by either party state at jointly occupied ports of entry before authorization is given for vehicles to legally operate within that state or jurisdiction, and for the enforcement of safety, size and weight laws, rules or regulations of the respective states. As to the provisions of [chapter 30, title 63](#), Idaho Code, the state tax commission is hereby authorized to enter into reciprocal agreements with other states concerning the exemption of, or taxation of, persons employed by the state of Idaho or of another state in jointly operated ports of entry. As used in this section, "jointly operated ports of entry" shall mean any state operated facility located within or without this state that employs persons that are direct employees of the state of Idaho and of another state which operates for the mutual benefit of both states.

(7) Pursuant to the authority and process defined in sections [67-2328](#) and [67-2333](#), Idaho Code, enter into agreements with authorized representatives of contiguous states for the purpose of establishing reciprocal procedures allowing the Idaho transportation department and contiguous state motor vehicle departments to collect fees for and to issue driver's licenses and identification cards to nonresident individuals in the same manner as would be issued in the individual's home state, provided that no

Idaho driver's license or Idaho identification card may be issued to a non-resident of the state of Idaho and that any reciprocal agreement under this provision shall otherwise be consistent with the driver license compact, [chapter 20, title 49](#), Idaho Code.

(8) Enter into all contracts and agreements with the United States government in the name of the state of Idaho, relating to the survey, construction and maintenance of roads, under the provisions of any act of congress including county and city highways, and submit a program of construction and maintenance as may be required by the United States government or any of its agencies, and do all other things necessary to cooperate and complete those programs.

[40-317, added 1985, ch. 253, sec. 2, p. 604; am. 1986, ch. 99, sec. 1, p. 277; am. 1989, ch. 273, sec. 1, p. 661; am. 1994, ch. 280, sec. 2, p. 868; am. 2013, ch. 258, sec. 1, p. 634; am. 2014, ch. 97, sec. 25, p. 287.]

40-318. LIMITATION OF POLITICAL ACTIVITY. (1) No officer or employee of the department or board shall:

- (a) Use his official authority or influence for the purpose of interfering with an election to or a nomination for office, or affecting the result thereof;
- (b) Directly or indirectly coerce, attempt to coerce, command, or direct any other such officer or employee to pay, lend, or contribute any part of his salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes; or
- (c) Be a candidate and hold elective office in any partisan election.
- (2) All such officers and employees shall retain the right to:
  - (a) Register and vote in any election;
  - (b) Express an opinion as an individual privately and publicly on political subjects and candidates;
  - (c) Display a political picture, sticker, badge, or button;
  - (d) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization, or of a similar organization;
  - (e) Be a member of a political party or other political organization and participate in its activities;
  - (f) Attend a political convention, rally, fund-raising function, or other political gathering;
  - (g) Sign a political petition as an individual;
  - (h) Make a financial contribution to a political party or organization;
  - (i) Take an active part in support of a candidate in an election;
  - (j) Be politically active in connection with a question which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance or any other question or issue of a similar character;
  - (k) Serve as an election judge or clerk, or in a similar position to perform nonpartisan duties as prescribed by state or local law;
  - (l) Be a candidate and hold elective office in any nonpartisan election;
  - (m) Take an active part in political organization management; and
  - (n) Otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise the neu-

trality, efficiency, or integrity of the officer's or employee's administration of state functions.

[40-318, added 1990, ch. 356, sec. 2, p. 964.]

40-319. GOOD FAITH OF STATE PLEDGED TO APPROPRIATION. For the construction and maintenance of highways as may be eligible for federal aid funds, excepting turnpike projects, the good faith of the state is pledged to make available funds which combined with funds made available by counties, highway districts and cities sufficient to match funds made available to the state of Idaho by the United States government for highway purposes and for the purpose of evidencing good faith, the board in the name of the state, is authorized to enter into any and all agreements with the United States government under rules and regulations approved by the United States government or any of its agencies.

[40-319, added 1985, ch. 253, sec. 2, p. 605.]

40-320. STATE HIGHWAY CONSTRUCTION AND RIGHT-OF-WAY COSTS BORNE BY STATE -- EXCEPTIONS. All costs of constructing, reconstructing and acquiring rights-of-way for highways in the state highway system shall be borne by the state. However, when a county or incorporated city in which a state highway is located, or is to be located, desires a higher standard of construction or reconstruction than is planned, the county or city may, with the approval of the board, pay the additional cost.

[40-320, added 1985, ch. 253, sec. 2, p. 606.]

40-321. COMMERCIAL ENTERPRISES ON PROHIBITED ACCESS HIGHWAYS PROHIBITED -- EXCEPTION -- CONNECTING SERVICE HIGHWAYS. No commercial enterprise or activity for serving motor vehicle users, other than emergency services for disabled vehicles and vending machines permitted under the provisions of federal law or federal rule and section [67-5411](#), Idaho Code, and board right-of-way use permit shall be conducted within or on any property designated as, or acquired for, or in connection with a prohibited access highway, as designated by the Idaho transportation board. However, the board may construct on that property, at locations it deems appropriate, connecting service highways parallel to the prohibited access highways in such manner as to facilitate the establishment and operation of commercial enterprises for serving motor vehicle users on private property abutting those service highways.

[40-321, added 1985, ch. 253, sec. 2, p. 606.]

40-322. DIRECTIVE ON IMPLEMENTATION OF THE FEDERAL REAL ID ACT OF 2005. (1) The legislature finds that the enactment into law by the U.S. congress of the REAL ID act of 2005, as part of public law 109-13, was adopted by the U.S. congress in violation of the principles of federalism contained in the 10th amendment to the constitution of the United States. The legislature reaffirms this position, while acknowledging that failure to implement certain provisions could adversely affect Idaho's citizens and businesses. Furthermore, it is the intent of the legislature to continue to protect the privacy and security of the state's residents.

(2) The legislature hereby declares that the state of Idaho shall:

(a) Meet the requirements for driver's licenses and identification cards, as described in title II of the REAL ID act of 2005, as such requirements existed on January 1, 2016;

(b) Not comply with any additional requirements enacted after January 1, 2016, without the express statutory approval of the Idaho state legislature;

(c) Submit compliance extension requests and status reports for the purposes outlined in paragraph (a) of this subsection to the United States department of homeland security.

(d) At such time as the Idaho transportation board and the Idaho transportation department achieve approval by the department of homeland security for issuance of REAL ID compliant driver's licenses and identification cards, any applicant for an Idaho driver's license or identification card shall be offered the option of obtaining a REAL ID compliant license or identification card or an Idaho driver's license or identification card that is not REAL ID compliant. In offering an applicant the option of a REAL ID compliant or REAL ID noncompliant driver's license or identification card, the department shall provide the applicant with written information of the following for both REAL ID compliant and noncompliant driver's licenses and identification cards:

(i) The purposes for which REAL ID compliant and noncompliant driver's licenses and identification cards are valid;

(ii) What types, if any, of electronic copies of source documents will be retained by the department for REAL ID compliant and noncompliant driver's licenses and identification cards;

(iii) Whether facial image capture will be retained by the department, even if a driver's license or identification card is not issued, for REAL ID compliant and noncompliant driver's licenses and identification cards; and

(iv) Any other information the department deems necessary to inform the applicant about REAL ID compliant and noncompliant driver's licenses and identification cards.

(3) This act shall be construed as to allow the Idaho transportation board and the Idaho transportation department to take reasonable and necessary steps to enhance the security of Idaho state driver's licenses and identification cards to ensure their acceptance for commercial airline travel within the United States.

(4) Beginning January 1, 2016, the department shall report to the senate transportation committee and the house of representatives transportation and defense committee on the acceptance of compliance extension requests and status reports to the United States department of homeland security, as set forth in subsection (2) of this section. Such report shall be submitted concurrently with the department's report on progress the department is making toward upgrading and implementing the division of motor vehicles' automated system. Such report shall be submitted no later than January 1 of each year through 2020, unless extended or revoked by the legislature.

[40-322, added 2008, ch. 385, sec. 2, p. 1060; am. 2015, ch. 42, sec. 1, p. 94; am. 2016, ch. 228, sec. 1, p. 625; am. 2017, ch. 175, sec. 1, p. 405.]