TITLE 40
HIGHWAYS AND BRIDGES

CHAPTER 5
IDAHO TRANSPORTATION DEPARTMENT

40-501. TRANSPORTATION DEPARTMENT. An Idaho transportation department is established, and for the purposes of section 20, article IV of the constitution of the state of Idaho, is an executive department of state government. The department shall have as its head the Idaho transportation board, established by chapter 3, title 40, Idaho Code.

[40-501, added 1985, ch. 253, sec. 2, p. 613.]

40-502. MAINTENANCE OF STATE HIGHWAYS. All state highways shall be maintained by the department at state expense, including sections of state highways located within local highway jurisdictions, except that in local highway jurisdictions where state highway sections are built to local highway jurisdictions standards, such as with curbs, sidewalks and areas available for parking and bus stops, the department shall maintain at state expense only the width of traveled way required for the movement of through highway traffic. The width of traveled way to be maintained at state expense shall not exceed the width of the traveled way of the state highways approaching the incorporated areas.

[40-502, added 1985, ch. 253, sec. 2, p. 613; am. 1998, ch. 258, sec. 2, p. 861.]

40-503. OFFICES -- APPOINTMENT -- QUALIFICATIONS -- COMPENSATION. (1) An office of the director of the Idaho transportation department is established, and, pursuant to the provisions of section 59-904, Idaho Code, the governor shall appoint a director having knowledge and experience in transportation matters. The director shall serve at the pleasure of the governor. Notwithstanding any other provision of law to the contrary, a director appointed on or before July 1, 2026, shall be considered for confirmation by the senate at the first regular session of the sixty-ninth Idaho legislature. The director shall not hold any other public office, nor any office in any political committee or organization, and shall devote full time to the performance of his official duties. The director shall receive compensation as the board may determine and shall be reimbursed for all actual and necessary travel and expenses incurred by him in the discharge of his official duties, not to exceed a sum approved by the board. Subject to the approval of the board, the director shall appoint a chief engineer of the department who shall serve at the pleasure of the director and the board, and who shall be exempt from the provisions of chapter 53, title 67, Idaho Code.

(2) An office of the chief engineer of the department is established, and the chief engineer shall be a registered professional engineer, holding a current certificate of registration in accordance with the laws of this state, or who, having those qualifications shall within nine (9) months after his appointment, qualify as a registered professional engineer in accordance with the laws of Idaho. The chief engineer shall also have had five (5) years of actual experience in highway engineering, at least three (3) of which shall have been in an administrative capacity involving the direction of a substantial technical engineering staff. The chief engineer shall not

hold any other public office, nor any office in any political committee or organization, and shall devote full time to the performance of his official duties under the control and direction of the director. The chief engineer shall receive compensation and reimbursement for travel and expenses as may be established by the director.

[40-503, added 1985, ch. 253, sec. 2, p. 613; am. 2016, ch. 53, sec. 1, p. 149; am. 2026, ch. 267, sec. 3, p. 1126.]

40-504. DIRECTOR -- BOND. Before entering upon the duties of his office, the director shall swear or affirm that he holds no other public office, nor any position under any political committee or organization. The affirmation shall be filed in the office of the secretary of state. The director shall be bonded to the state of Idaho in the time, form and manner prescribed by chapter 8, title 59, Idaho Code. The premium on the bond shall be a charge against the state, to be audited, allowed and paid as are other claims, out of the state highway and state aeronautics accounts.

[40-504, added 1985, ch. 253, sec. 2, p. 614.]

40-505. DIRECTOR -- DUTIES AND POWERS. The director shall be the technical and administrative officer of the board and under the board's control, supervision and direction, shall have general supervision and control of all activities, functions and employees of the department. He shall enforce all provisions of the laws of the state relating to the department, the rules and regulations of the board, and shall exercise all necessary incidental powers.

[40-505, added 1985, ch. 253, sec. 2, p. 614.]

40-506. COMPENSATION FOR TAKING CERTAIN PROPERTY. (1) The department is authorized to acquire by purchase, gift or condemnation, all advertising displays and any property rights pertaining to them, when those advertising displays are required to be removed under the provisions of chapter 19, title 40, Idaho Code.

(2) In any appropriation for this purpose the department shall pay compensation under existing eminent domain law only for the following:

(a) The taking from the owner of a sign, display, or device of all right, title, leasehold, and interest in the sign, display or device; and

(b) The taking from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain signs, displays and devices on that property. Where setback easements restricting the erection of structures or advertising displays have been recorded by the state on land where those structures have been erected, the landowner of the land shall be deemed to have been fully compensated for them.

(3) In any action at law instituted by the department under this section the state shall not be required, as a prerequisite, to the taking of or appropriation to comply with section 7-704 2. or section 7-707 7., Idaho Code.

[40-506, added 1985, ch. 253, sec. 2, p. 614; am. 1997, ch. 156, sec. 2, p. 452; am. 2006, ch. 450, sec. 2, p. 1340.]

40-507. CONSTRUCTION AND MAINTENANCE OF INFORMATION CENTERS. (1) The department may design, erect, authorize, supervise and maintain information centers at safety rest areas in a number and at locations as it may determine to be necessary to meet the need of safety and effectively provide information of specific interest to the traveling public.

(2) Outdoor advertising placed within information centers shall be subject to all provisions of this title and all regulations promulgated by the board pursuant to the provisions of this title.

(3) Application for a permit to place outdoor advertising within an information center shall be made on a form prescribed by the department, and all permits shall be issued for a period of at least one (1) year. The department shall charge or authorize fees for the permit and for renewal sufficient to amortize the cost of the structure within an information center upon which the outdoor advertising is placed within the expected life of the structure, and sufficient to pay for the maintenance of the structure.

(4) The department will allow posters and signs to be placed by nonprofit anti-human trafficking organizations in or around safety rest areas. The posters and signs must be at least eight and one-half by eleven inches (8 1/2" x 11") in size, must be mounted as tamper and vandalism resistant, and must contain toll-free telephone numbers and/or emergency contact numbers for victims of human trafficking, including the number for the "National Human Trafficking Resource Center" and the number for the Idaho state office of crime victims advocacy. The posters and signs may include text in a variety of languages. The posters and signs will be covered by a permit if the safety rest area or turnout is part of the highway right-of-way. Posters and signs containing the aforementioned contact numbers shall have all costs for the sign, installation, and/or maintenance provided by the aforementioned nonprofit anti-human trafficking organization(s). Temporary installation permits can include a memorandum of understanding (MOU), and encroachment permit, or a special event permit. The cost of poster and sign installment and maintenance shall be covered in the permit or MOU normally at the expense of the requestor.

(5) As used in subsection (4) of this section:

(a) "Emergency contact numbers" means a hotline that is: available twenty-four (24) hours a day, seven (7) days a week; toll-free; operated by a nonprofit, nongovernmental organization; anonymous and confidential; and able to provide help, referral to services, training and general information;

(b) "Human trafficking" means the illegal movement of people, typically for the purposes of forced labor or commercial sexual exploitation;

(c) "Safety rest area" means a roadside area with restrooms and other facilities for the use of motorists.

[40-507, added 1985, ch. 253, sec. 2, p. 614; am. 2015, ch. 207, sec. 1, p. 635.]

40-508. TRAFFIC SAFETY COMMISSION CREATED -- MEMBERSHIP. (1) An Idaho traffic safety commission is established within the department.

(2) The commission shall be composed of not more than fifteen (15) members appointed by the director, who shall include the chairman of the transportation and defense committee of the house of representatives of the state and the chairman of the transportation committee of the senate of the state, plus the director or his representative who shall act as chairman. Members

shall be representative of state and local traffic oriented agencies, the legislature, the judiciary, and private organizations and citizen groups.

(3) The director shall employ necessary personnel, shall have general supervision and control of all activities, functions and employees, and shall enforce all provisions of the laws of the state relating to highway safety programs and administer any other activities as may be required by the federal highway safety act of 1966 and any amendments to it, and the rules and regulations of the board pertaining to it.

[40-508, added 1985, ch. 253, sec. 2, p. 615.]

40-509. DUTIES OF TRAFFIC SAFETY COMMISSION. The commission shall:

(1) Periodically review traffic safety problems in Idaho and develop effective plans for additional local-state cooperative activities;

(2) Recommend to the director those agency programs and political subdivision programs to receive federal aid for highway safety in accordance with uniform federal standards;

(3) Advise and recommend to the director future traffic accident prevention activities; and

(4) Carry out any other activities as may be required by the federal highway safety act of 1966 and any amendments to it.

[40-509, added 1985, ch. 253, sec. 2, p. 615.]

40-510. PORTS OF ENTRY OR CHECKING STATIONS ESTABLISHED -- MOTOR VEHICLE INVESTIGATOR ACTIVITIES -- AUTHORITY OF THE BOARD TO EMPLOY INDIVIDUALS. (1) To augment and help make more efficient and effective the enforcement of certain laws of the state of Idaho, the Idaho transportation department is hereby authorized and directed to establish from time to time temporary or permanent ports of entry or checking stations upon any highways in the state of Idaho, at such places as the Idaho transportation department shall deem necessary and advisable.

(2) The board is authorized to appoint and employ individuals who shall have limited peace officer authority for the enforcement of such motor vehicle-related laws as are herein specified:

(a) Sections 18-3906 and 18-8001, Idaho Code;

(b) Sections 25-1105 and 25-1182(2), Idaho Code;

(c) Sections 40-510 through 40-512, Idaho Code;

(d) Chapters 1 through 5, 9, 10, 15 through 19, 22 and 24, title 49, sections 49-619, 49-660, 49-1407, 49-1418 and 49-1427 through 49-1430, Idaho Code;

(e) Authorized use of motor fuel on the highways and international fuel tax agreement (IFTA) provisions of chapter 24, title 63, Idaho Code;

(f) Section 67-2901A, Idaho Code; and

(g) Sections 49-676 and 63-2425, Idaho Code.

(3) Motor vehicle investigators shall have the authority to access confidential vehicle identification number information.

(4) Any employee so appointed shall have the authority to issue misdemeanor traffic citations in accordance with the provisions of section 49-1409, Idaho Code, and infraction citations in accordance with the provisions of chapter 15, title 49, Idaho Code.

(5) No employee of the department shall carry or use a firearm of any type in the performance of his duties unless specifically authorized in writing by the director of the Idaho state police to do so.

(6) The board is authorized to extend the authority as provided in this section to authorized employees of contiguous states upon approval of a bilateral agreement according to the provisions of section 40-317, Idaho Code.

[(40-510) 67-2926, added 1950 (E.S.), ch. 15, sec. 1, p. 26; am. 1953, ch. 218, sec. 1, p. 333; am. 1974, ch. 27, sec. 193, p. 811; am. 1982, ch. 95, sec. 140, p. 275; am. and redesig. 1991, ch. 288, sec. 6, p. 746; am. 1999, ch. 383, sec. 2, p. 1053 am. 2000, ch. 303, sec. 1, p. 1034; am. 2000, ch. 469, sec. 103, p. 1557; am. 2006, ch. 31, sec. 1, p. 94; am. 2015, ch. 38, sec. 17, p. 88; am. 2020, ch. 327, sec. 5, p. 945.]

40-511. STOPPING AND INSPECTION. (1) Wherever by the laws of the state of Idaho any vehicle with a maximum gross weight or registered gross weight, or operated at a gross weight, of twenty-six thousand one (26,001) pounds or more, excepting those transporting placardable quantities of hazardous materials, is used to transport any merchandise, product, commodity, or livestock within the state, within the state to without the state, or from without the state to within the state, the owner or operator of either the motor vehicle or trailer, as defined in chapter 1, title 49, Idaho Code, used to transport such merchandise, product, commodity, or livestock is hereby required to stop at such ports of entry or checking stations established by the Idaho transportation department and submit to inspection, grading or weighing for compliance with the laws of the state of Idaho. Noncommercial vehicles, as defined in section 49-123(2)(k), Idaho Code, shall not be required to stop for inspection pursuant to this section.

(2) Vehicles or combinations of vehicles with a maximum gross weight of ten thousand (10,000) pounds or more transporting placardable quantities of hazardous materials are required to stop at all ports of entry or checking stations established by the Idaho transportation department.

(3) It shall be the duty of such owner or operator of every motor vehicle or trailer to drive the motor vehicle or trailer upon any state-owned inspection station, stationary or portable scale, or private scale, certified by the state of Idaho, when requested to do so by any peace officer, excepting fish and game officers, or authorized employees of the Idaho transportation department.

(4) Authorized employees of the transportation department may stop any vehicle with a maximum gross weight of eighteen thousand (18,000) pounds or more by displaying a flashing red light if the authorized employee has probable cause to believe the vehicle bypassed a weighing or inspection station or proceeded through the station without regard for the directional signals. Authorized employees may direct a vehicle that has bypassed a weighing or inspection station, or has proceeded through the station without regard for the directional signals, to return to the bypassed inspection or weighing station and may issue a citation for failure to stop as required in this section. The operator of a vehicle shall bring the vehicle to a stop, pulling off the traveled portion of the highway, when directed to do so by an authorized employee of the transportation department by use of emergency lights or siren.

(5) The department is authorized to implement technology and procedures, where practicable, to allow vehicles that meet established criteria to lawfully bypass a port of entry. The department may promulgate rules to implement the provisions of this section.

[(40-511) 67-2927, added 1950 (E.S.), ch. 15, sec. 2, p. 26; am. 1970, ch. 54, sec. 1, p. 133; am. 1974, ch. 27, sec. 194, p. 811; am. 1982, ch. 95, sec. 141, p. 275; am. 1988, ch. 265, sec. 583, p. 878; am. and redesignated 1991, ch. 288, sec. 7, p. 746; am. 1992, ch. 111, sec. 1, p. 341; am. 1997, ch. 233, sec. 1, p. 682; am. 1999, ch. 393, sec. 1, p. 1091; am. 2006, ch. 31, sec. 2, p. 94; am. 2022, ch. 31, sec. 1, p. 88; am. 2024, ch. 14, sec. 1, p. 128.]

40-512. PENALTIES. Any person failing to stop at any port of entry or checking station when so required by the provisions of section 40-511, Idaho Code, or, failing to submit to the inspection, grading or weighing required by any law of the state of Idaho, shall be guilty of a misdemeanor.

[(40-512) 1950 (E.S.), ch. 15, sec. 3, p. 26; am. 1970, ch. 54, sec. 2, p. 133; am. and redesignated 1991, ch. 288, sec. 8, p. 747.]

40-513. VETERANS MEMORIAL CENTENNIAL BRIDGE ESTABLISHED. The Bennett Bay bridge located on interstate highway I-90 in Kootenai county shall be designated as the "Veterans Memorial Centennial Bridge" to honor those persons who served in the armed forces during periods of wartime as defined by congress. The transportation department shall erect suitable signs so designating the bridge as the veterans memorial centennial bridge.

[40-513, added 1992, ch. 105, sec. 1, p. 327.]

40-513A. DESIGNATION OF THE I.B. PERRINE BRIDGE. The bridge spanning the Snake River Canyon on U.S. Highway 93 south of Interstate Highway 84 near the city of Twin Falls, Idaho, shall be designated as the "I.B. Perrine Bridge" to honor I.B. Perrine for his part as founder and father of the Twin Falls area. His dream for agriculture and his efforts to bring water to the valley set in motion the development we see today. The transportation department shall erect suitable signs so designating the bridge as the "I.B. Perrine Bridge."

[40-513A, added 2000, ch. 197, sec. 1, p. 489.]

40-513B. PORTION OF U.S. HIGHWAY 95 DESIGNATED AS STU DOPF MEMORIAL HIGHWAY. That portion of United States Highway 95 through the canyon between Midvale and Cambridge shall be known and designated as the "Stu Dopf Memorial Highway" in honor of the journalist who was interested in increasing the ease and safety of travel along U.S. Highway 95. The Idaho transportation department shall identify areas suitable for posting markers along that portion of U.S. Highway 95 indicating its designation as the Stu Dopf Memorial Highway.

[40-513B, added 2001, ch. 352, sec. 1, p. 1234.]

40-513C. DESIGNATION OF PURPLE HEART TRAIL. That portion of interstate highway I-90 located in Idaho is the Idaho portion of the national purple heart trail. The Idaho transportation department shall design and construct signs indicating the highway number, the designation as the purple heart trail, and any other appropriate information. The department shall erect a sign at each end of the highway and markers at intermediate sites along the highway that the department determines are appropriate. The department is required to design, construct, and erect the signs and markers only to the

extent that moneys are provided for this purpose through private donations, grants, awards or other moneys.

[40-513C, added 2008, ch. 215, sec. 1, p. 671.]

40-513D. STATE HIGHWAY 3 DESIGNATED AS NORTH IDAHO MEDAL OF HONOR HIGHWAY. State highway 3, connecting U.S. highway 12 near Spalding with interstate 90 near Rose Lake, shall be designated as the "North Idaho Medal of Honor Highway" to honor Idahoans awarded the congressional medal of honor for their service in our armed forces. The Idaho transportation department shall identify areas suitable for posting markers along state highway 3 indicating its designation as the "North Idaho Medal of Honor Highway."

[40-513D, added 2011, ch. 48, sec. 1, p. 114.]

40-513E. DESIGNATION OF VIETNAM VETERANS MEMORIAL HIGHWAY. That portion of interstate highway I-84 located in Idaho is designated as the Vietnam veterans memorial highway. The Idaho transportation department shall design and construct signs indicating the highway number, the designation as the Vietnam veterans memorial highway and any other appropriate information. The department shall erect a sign at each end of the highway and markers at intermediate sites along the highway that the department determines are appropriate. The department is required to design, construct and erect the signs and markers only to the extent that moneys are provided for this purpose through private donations, grants, awards or other moneys.

[40-513E, added 2014, ch. 19, sec. 1, p. 26.]

40-513F. DESIGNATION OF THE IDAHO MEDAL OF HONOR HIGHWAY. That portion of U.S. highway 20 located in Idaho shall also be known as the "Idaho Medal of Honor Highway." The Idaho transportation department shall design and construct signs indicating the designation as the "Idaho Medal of Honor Highway" and any other appropriate information. The department shall erect a sign at each end of the highway and markers at intermediate sites along the highway that the department determines are appropriate. The department is required to design, construct, and erect the signs and markers only to the extent that less than thirty thousand dollars ($30,000) of existing dedicated funds are provided for this purpose as determined by the transportation board. Design of the signs should be similar to the signs currently erected on U.S. highway 20 at the time of enactment of this legislation. Signs shall identify the highway as the "Idaho Medal of Honor Highway" and include the three (3) different designs of the medal of honor.

[40-513F, added 2019, ch. 65, sec. 1, p. 157.]

40-513G. DESIGNATION OF THE POW/MIA MEMORIAL HIGHWAY. The portion of U.S. highway 26 located in Idaho beginning at the Oregon border and ending at the Wyoming border shall be known as the "POW/MIA Memorial Highway." The Idaho transportation department may place and maintain suitable signs at each end of the portion of U.S. highway 26 located in Idaho and may place markers at intermediate sites along the highway to clearly identify it as the "POW/MIA Memorial Highway." Provided, the department shall not place such signs or markers where other current special designations exist. The department will determine the location of any signs in the road right-of-way

based on safety considerations. The department may work with the POW/MIA organization for the design of any signs and may accept moneys from various groups to create, install, and maintain the signs provided for in this section.

[40-513G, added 2021, ch. 193, sec. 1, p. 521.]

40-513H. DESIGNATION OF THE BOBBY CHAMBERS MEMORIAL HIGHWAY. The portion of state highway 6 located near Potlatch, Idaho, beginning at the intersection of United States Highway 95 and ending at the western city limits of the city of Potlatch, is to be known as the "Bobby Chambers Memorial Highway" to honor Robert "Bobby" Chambers, a Vietnam war hero from Potlatch who earned the silver star and purple heart for his actions on the same day that he lost his life in service of his country at age nineteen (19). The Idaho transportation department may place and maintain suitable signs at each end of the designated memorial highway. Provided, the department shall not place such signs or markers where other current special designations exist. The Idaho transportation department will determine the location of any signs in the road right-of-way based on safety considerations. The Idaho transportation department may work with family members and local organizations for the design of any signs and may accept moneys from various groups to create, install, and maintain the signs provided for in this section.

[40-513H, added 2021, ch. 235, sec. 1, p. 716.]

40-514. PUBLIC TRANSPORTATION SERVICES -- PUBLIC TRANSPORTATION SERVICES ADVISORY COUNCIL CREATED -- INTERAGENCY WORKING GROUP CREATED -- DEPARTMENT SUPPORT. (1) All state agencies except the department of education and all public entities that use public funds to provide public transportation services within the state shall report not less often than semiannually to the department the amount of funding expended, audits conducted, the number of passengers carried, the agency vehicles used and the vehicle miles driven to provide transportation for Idaho citizens. Upon receipt of such information, the department shall:

(a) Develop a uniform data collection and reporting system. Information from said system shall be submitted annually to the joint finance-appropriations committee of the Idaho legislature and, as public information, shall also be available upon request;

(b) In cooperation with other state agencies and public entities, develop a comprehensive plan for public transportation; and

(c) Provide assistance to operators of local and regional transportation systems that are consistent with public program objectives of the state plan.

(2) (a) There is hereby created the public transportation advisory council to advise the Idaho transportation department on issues and policies regarding public transportation in Idaho. The council shall participate in planning activities, identify transportation needs, and promote coordinated transportation systems. Before setting programs and priorities, the council shall seek pertinent information, facts and data from local governments, agencies and providers regarding rural public transportation issues.

(b) The advisory council shall be composed of six (6) members appointed by the Idaho transportation board. Appointed members shall be representatives of local governments and agencies, private organizations,

citizen groups and private providers that have an interest in public transportation, and people with disabilities and the elderly who utilize public transportation. The board shall appoint said members from recommendations submitted by said organizations, groups, providers, users and state agencies in each district. One (1) member shall be appointed from each of the six (6) transportation department districts as provided in section 40-303, Idaho Code. The term of each member shall be three (3) years, and the initial appointments to the council shall be such that two (2) members shall be appointed each year thereafter.

(c) The council is authorized to meet three (3) times per year, with additional meetings as authorized by the board.

(d) Members of the advisory council shall be reimbursed according to the provisions of section 59-509(g), Idaho Code.

(3) (a) The director of the Idaho transportation department, together with the directors of the affected state agencies, shall establish an interagency working group to advise and assist the department in analyzing public transportation needs, identifying areas for coordination, and developing strategies for eliminating procedural and regulatory barriers to coordination at the state level. The group shall undertake detailed work assignments related to transportation services that promote cooperation and collaboration among systems.

(b) The working group shall be composed of a representative from the office of the governor and one (1) staff representative from each of the following agencies that expend public funds for transportation services or associations representing public transportation interests:

(i) Idaho commission on aging;

(ii) Two (2) representatives from the Idaho department of health and welfare, one (1) of whom shall represent the division of medicaid;

(iii) Idaho state department of education;

(iv) Idaho transportation department;

(v) Community transportation association;

(vi) Idaho council on developmental disabilities;

(vii) Division of vocational rehabilitation; and

(viii) Idaho department of labor, workforce development council.

(c) Ex officio members may be appointed to the group as deemed necessary. Members of the working group representing state agencies shall be reimbursed by their respective agencies according to the provisions of section 59-509(b), Idaho Code.

(4) The interagency working group established in subsection (3) of this section shall:

(a) Meet at least once in each calendar quarter;

(b) Discuss all agenda items submitted to it by any member of the group;

(c) Provide notice of each meeting at least two (2) weeks in advance of the meeting; and

(d) Annually elect a chairman from among its members; such person shall not serve consecutive terms as chairman.

(5) The department shall provide the administrative support required by the council and the interagency working group.

[40-514, added 1992, ch. 149, sec. 4, p. 449; am. 1996, ch. 35, sec. 2, p. 89; am. 2000, ch. 417, sec. 2, p. 1329; am. 2022, ch. 70, sec. 1, p. 207.]

40-515. SHORT TITLE. This section through section 40-520, Idaho Code, shall be known and may be cited as the "Idaho Broadband Dig Once and Right-of-Way Act."

[40-515, added 2022, ch. 208, sec. 1, p. 670.]

40-516. LEGISLATIVE INTENT: DIG ONCE POLICY. (1) It is the intent of the legislature to recognize that the citizens of the state live and work in a data-driven society and that the connectivity in Idaho's urban and rural areas are key for a thriving Idaho economy. Broadband is a vital component in accomplishing connectivity throughout Idaho.

(2) The legislature recognizes and hereby declares that broadband service throughout the entire state is in the overall public interest for the state of Idaho in furtherance of the social and economic development of the state, and the use of highway rights-of-way to support broadband infrastructure and a "Dig Once Policy" furthers the overall public interest.

(3) It is the intent of the legislature that the Idaho transportation department develop rules, standards, and policies consistent with the "Dig Once Policy" to facilitate the expansion of broadband with the cost-efficient, orderly, and coordinated installation of broadband infrastructure on highway rights-of-way and during roadway construction.

[40-516, added 2022, ch. 208, sec. 2, p. 670.]

40-517. DEFINITIONS. As used in sections 40-515 through 40-520, Idaho Code:

(1) "Broadband" means wide bandwidth communication transmissions allowing high speed internet access with an ability to simultaneously transport multiple signals and traffic types at a minimum transmission speed of one hundred (100) megabits per second for downloads and twenty (20) megabits per second for uploads.

(2) "Broadband infrastructure" means networks of deployed telecommunications equipment, conduit, and technologies necessary to provide broadband and other advanced telecommunications services to wholesalers or end users, including but not limited to private homes, businesses, commercial establishments, schools, or public institutions.

(3) "Broadband provider" means any entity that:

(a) Provides broadband services, including but not limited to a telecommunications provider, cable service provider, broadband provider, cellular provider, political subdivision that provides broadband services, electric cooperative that provides broadband services, electric utility that provides broadband services, state government entity that provides broadband services, tribal government that provides broadband services, or internet service provider; or

(b) Builds broadband infrastructure, including but not limited to a port, nonprofit organization, or private-public partnership established for the purpose of expanding broadband in the state.

(4) "Department" means the Idaho transportation department.

(5) "Dig Once Policy" means a policy or practice that minimizes the number and scale of excavations or construction and costs when installing broadband infrastructure in highway rights-of-way.

(6) "Highway" means a road that is part of the state highway system.

(7) "Longitudinal access" means access to or use of any part of a right-of-way of a highway that extends generally parallel to the right-of-way for a total of one hundred (100) or more linear feet.

[40-517, added 2022, ch. 208, sec. 3, p. 671.]

40-518. DIG ONCE POLICY NOTIFICATION AND PROJECT IDENTIFICATION. (1) The department shall develop on a competitively neutral basis a registry of broadband providers interested in installing broadband infrastructure along a highway. The department shall update the registry no less than once per year.

(2) The department shall identify potential projects managed by the department, either self-performed by the department or performed under contract, on highways under the department's jurisdiction for which notice under subsection (3) of this section is required. Potential projects eligible for identification shall include projects that involve the construction of underground infrastructure, road construction, or other work that will result in longitudinal access that could reasonably include, or prepare for, the installation of broadband infrastructure consistent with the "Dig Once Policy."

(3) For each project identified under subsection (2) of this section, the department shall timely notify the broadband providers on the registry established under subsection (1) of this section:

(a) That the project has been identified as suitable for coordination with broadband providers;

(b) Of the broadband provider's opportunity to coordinate with the department to accommodate the installation of broadband infrastructure; and

(c) Of the process for submitting a statement of interest to coordinate with the department on the project.

(4) The department shall provide each broadband provider that receives a notice under subsection (3) of this section no less than thirty (30) days from the date the notice is issued to submit to the department a statement of interest to coordinate with the department.

(5) For each project for which the department provides notice under this section, the department shall engage with each broadband provider that submits a statement of interest to determine whether accommodation of installation of broadband infrastructure is appropriate.

(6) The department shall make the final determination of the suitability of a project to include installation of broadband infrastructure and may prescribe any conditions, requirements, restrictions, or other provisions in furtherance of the "Dig Once Policy." Conditions, requirements, restrictions, or provisions prescribed pursuant to this subsection may include but need not be limited to liability provisions, requirements related to the financial responsibilities for future relocation of broadband infrastructure if relocation is necessary, and indemnification provisions. The department may deny the installation of broadband infrastructure if the installation hinders or obstructs highway construction, maintenance, or operational safety, is contrary to statute or rule, or unduly delays or interferes with construction, maintenance, joint trenching projects, or the repair or construction of water, wastewater, electrical, or gas line facilities.

(7) The department may install conduit for its own use where appropriate or in support of expanding broadband infrastructure in the state of Idaho.

(8) The department shall promulgate rules for carrying out the provisions of this section that are nondiscriminatory, neutral, fair, and objective and that promote competition among broadband providers. Rules shall include, at a minimum:

(a) Procedures consistent with the "Dig Once Policy" for processing and reviewing statements of interest received from a broadband provider by the department. Consistent with the "Dig Once Policy," the department shall issue rules that will restrict speculative practices that may unduly impact and congest the department's rights-of-way;

(b) A broadband provider shall be charged for the actual cost incurred by the department as a result of the installation of a broadband provider's broadband infrastructure. If there is more than one (1) broadband provider installing broadband infrastructure, then each broadband provider shall share equally in the common charges of the installation of broadband infrastructure, including but not limited to trenching, boring, traffic controls, and make-ready costs;

(c) Criteria for identifying projects that would be suitable for the placement of broadband infrastructure;

(d) Criteria for the installation of the department's own conduit. Rules may allow use of such conduit by broadband providers;

(e) Procedures and forms for permitting processes; and

(f) A contested case administrative appeals process, pursuant to the Idaho administrative procedure act, chapter 52, title 67, Idaho Code.

(9) The department may not grant any longitudinal access under this section that results in a significant compromise of the safe, efficient, and convenient use of a highway for the traveling public.

[40-518, added 2022, ch. 208, sec. 4, p. 671.]

40-519. PROVIDER SHALL NOT BE ASSESSED FAIR MARKET VALUE. A broadband provider installing broadband infrastructure in accordance with sections 40-515 through 40-520, Idaho Code, shall not be assessed fair market value.

[40-519, added 2022, ch. 208, sec. 5, p. 673.]

40-520. RIGHTS-OF-WAY FOR BROADBAND. (1) Except as provided in subsection (5) of this section, the department shall allow a broadband provider longitudinal use and access to the rights-of-way of a highway for the installation, operation, and maintenance of broadband infrastructure.

(2) The department shall enter into a license agreement with a broadband provider and issue a permit before granting it any longitudinal access under this section. Except as specifically provided by the agreement, a property interest in a right-of-way may not be granted under the provisions of this section. An agreement entered into by the department under this section:

(a) Shall include terms and conditions that are nondiscriminatory and are consistent with the public policy promoting the expansion of broadband infrastructure in Idaho, such as liability provisions, requirements related to the financial responsibilities for future relocation of underground broadband infrastructure if relocation is necessary, and indemnification provisions;

(b) Shall specify maintenance responsibilities for broadband infrastructure being placed;

(c) May require that the department be allowed to utilize the broadband infrastructure only for public safety warnings, road condition notifications, and amber alerts to motorists on highways;

(d) May require that the broadband provider install conduit for nonexclusive use, in which the cost of the project shall be shared proportionally. Alternatively, if the department requires the broadband provider to install only one (1) conduit of equal or smaller size of the conduit being installed exclusively for internal department purposes, then the department shall be responsible only for the costs of the additional materials and labor for the installation of its own conduit. The department must keep all documents and records regarding the internal use of the conduit and make public such documents if requested. The department may not allow the use of its internal conduit to any other entity. If the department allows the use of internal conduit to another entity, then the department shall reimburse the broadband provider for half of the project costs;

(e) Shall specify that the broadband provider shall own its broadband infrastructure; and

(f) Shall specify that the use of the rights-of-way shall be nonexclusive.

(3) A broadband provider shall be responsible for the costs of installing its own broadband infrastructure on the department's right-of-way. If there is more than one (1) broadband provider installing broadband infrastructure at the same project, then the broadband provider is responsible for its pro rata share of the cost.

(4) The department shall require the same fees from a broadband provider under this section for longitudinal access to the right-of-way as a public utility defined under section 61-129, Idaho Code. However, fees charged to a cable provider shall be in accordance with applicable federal law.

(5) The department may not grant any longitudinal access under this section that results in a significant compromise of the safe, efficient, and convenient use of a highway for the traveling public.

(6) The department may install conduit for its own use where appropriate or in support of expanding broadband infrastructure in the state of Idaho.

(7) The department shall promulgate rules:

(a) Governing the installation, operation, and maintenance of broadband infrastructure granted longitudinal access pursuant to this section;

(b) Specifying the procedures for establishing an agreement for longitudinal access for a broadband provider;

(c) Specifying criteria for the installation of the department's own conduit and use of such conduit by broadband providers consistent with this section; and

(d) Providing for the relocation or removal of broadband infrastructure for needed changes to a highway on the interstate system.

(8) Nothing in section 40-515, Idaho Code, through this section is intended to preempt, diminish, or otherwise limit the authority of the department over public rights-of-way.

[40-520, added 2022, ch. 208, sec. 6, p. 673.]

40-528. FEDERAL TRANSIT ADMINISTRATION AUTHORITY. (1) The Idaho transportation department and its director are the designated recipients for the federal transit administration funding for the rural transit program and the small urban transit program within the state of Idaho.

(2) Notwithstanding the provisions of subsection (1) of this section:

(a) The department is not the designated recipient for large urbanized areas as determined and defined by the United States department of commerce, bureau of the census; and

(b) The department is not the designated recipient for any qualifying urbanized area identified by the governor prior to July 1, 2011.

[40-528, added 2012, ch. 22, sec. 1, p. 77; am. 2015, ch. 244, sec. 24, p. 1022.]