

GENERAL LAWS
OF THE
STATE OF IDAHO



PASSED BY
THE SECOND REGULAR SESSION OF THE
SIXTY-SECOND IDAHO LEGISLATURE

Convened January 6, 2014
Adjourned March 20, 2014

Volume 1

Idaho Official Directory and Roster of State Officials and Members
of State Legislature follows the Index.

PUBLISHED BY AUTHORITY OF THE
SECRETARY OF STATE

BEN YSURSA
Secretary of State
Boise, Idaho

CHAPTER 1
(S.B. No. 1210)

AN ACT

RELATING TO APPROPRIATIONS AND TRANSFERS OF FUNDS; PROVIDING AN APPROPRIATION AND A TRANSFER OF FUNDS TO THE FIRE SUPPRESSION DEFICIENCY FUND; PROVIDING AN APPROPRIATION AND A TRANSFER OF FUNDS TO THE PEST CONTROL DEFICIENCY FUND; PROVIDING AN APPROPRIATION AND A TRANSFER OF FUNDS TO THE HAZARDOUS SUBSTANCE EMERGENCY RESPONSE FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated and the State Controller shall transfer \$10,379,600 from the General Fund to the Fire Suppression Deficiency Fund as soon as practicable. Such moneys shall be used to reimburse costs incurred by the Range and Forest Fire Protection Program in the Department of Lands pursuant to Sections 38-131 and 38-131A, Idaho Code.

SECTION 2. There is hereby appropriated and the State Controller shall transfer \$1,456,700 from the General Fund to the Pest Control Deficiency Fund as soon as practicable. Such moneys shall be used to reimburse costs incurred by the Plant Industries Program in the Department of Agriculture pursuant to Section 22-2019, Idaho Code.

SECTION 3. There is hereby appropriated and the State Controller shall transfer \$38,700 from the General Fund to the Hazardous Substance Emergency Response Fund as soon as practicable. Such moneys shall be used to reimburse costs incurred by the Bureau of Homeland Security in the Military Division of the Office of the Governor pursuant to Section 39-7110, Idaho Code.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 5, 2014

CHAPTER 2
(H.B. No. 386)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DIVISION OF VETERANS SERVICES FOR FISCAL YEAR 2014; REDUCING THE APPROPRIATION TO THE DIVISION OF VETERANS SERVICES FOR FISCAL YEAR 2014; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 165, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated \$2,100,000 from the Federal Grant Fund to the Division of Veterans Services, to be expended for operating expenditures, for the period July 1, 2013, through June 30, 2014.

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation made to the Division of Veterans Services in Section 1, Chapter 165, Laws of 2013, from the Miscellaneous Revenue Fund, is hereby re-

duced by \$2,100,000 for operating expenditures, for the period July 1, 2013, through June 30, 2014.

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

Approved February 10, 2014

CHAPTER 3
(H.B. No. 387)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR THE MEDICAL BOARDS FOR FISCAL YEAR 2014; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR THE MEDICAL BOARDS FOR FISCAL YEAR 2014; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 163, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated to the Medical Boards, the following amounts to be expended for the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. BOARD OF DENTISTRY:			
FROM:			
State Regulatory			
Fund		\$52,000	\$52,000
II. BOARD OF MEDICINE:			
FROM:			
State Regulatory			
Fund	\$20,500	\$79,500	\$100,000
III. BOARD OF PHARMACY:			
FROM:			
Federal Grant			
Fund		\$87,600	\$87,600
IV. BOARD OF VETERINARY MEDICINE:			
FROM:			
State Regulatory			
Fund	\$17,800	0	\$17,800
TOTAL	\$38,300	\$219,100	\$257,400

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation made to the Medical Boards for the Board of Veterinary

Medicine in Section 1, Chapter 163, Laws of 2013, from the State Regulatory Fund, is hereby reduced by \$17,800 for operating expenditures, for the period July 1, 2013, through June 30, 2014.

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

Approved February 10, 2014

CHAPTER 4
(H.B. No. 388)

AN ACT

RELATING TO APPROPRIATIONS; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF INDIRECT SUPPORT SERVICES FOR FISCAL YEAR 2014; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE PUBLIC HEALTH SERVICES DIVISION FOR FISCAL YEAR 2014; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE PUBLIC HEALTH SERVICES DIVISION FOR FISCAL YEAR 2014; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 238, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated from the Cooperative Welfare (Dedicated) Fund to the Department of Health and Welfare for the Division of Indirect Support Services, the following amounts to be expended for the designated expense classes, for the period July 1, 2013, through June 30, 2014:

FOR:

Personnel Costs	\$19,400
Operating Expenditures	<u>26,100</u>
TOTAL	\$45,500

SECTION 2. In addition to the appropriation made in Section 1, Chapter 303, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated to the Department of Health and Welfare for the Public Health Services Division, the following amounts to be expended for the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
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I. PHYSICAL HEALTH SERVICES:

FROM:

Cooperative Welfare (Dedicated)

Fund	\$2,000,000	\$2,000,000
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	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
II. EMERGENCY MEDICAL SERVICES:			
FROM:			
Cooperative Welfare (Dedicated)			
Fund	<u>\$191,000</u>	<u>0</u>	<u>\$191,000</u>
TOTAL	\$191,000	\$2,000,000	\$2,191,000

SECTION 3. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Health and Welfare for the Public Health Services Division for the Emergency Medical Services Program in Section 1, Chapter 303, Laws of 2013, from the Cooperative Welfare (Federal) Fund, is hereby reduced by \$136,000 for personnel costs, for the period July 1, 2013, through June 30, 2014.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 10, 2014

CHAPTER 5
(S.B. No. 1216)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2014; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 161, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated to the Department of Fish and Game, the following amounts to be expended for the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. FISHERIES:				
FROM:				
Fish and Game (Other)				
Fund	\$89,900	\$125,800		\$215,700
Fish and Game (Federal)				
Fund	<u>107,800</u>	<u>490,600</u>	<u>\$200,000</u>	<u>798,400</u>
TOTAL	\$197,700	\$616,400	\$200,000	\$1,014,100

II. WILDLIFE:

FROM:

Fish and Game (Other)

Fund	\$50,000	\$87,500		\$137,500
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	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Fish and Game Expendable Trust				
Fund	84,800	15,500		100,300
Fish and Game (Federal)				
Fund	<u>329,700</u>	<u>483,000</u>		<u>812,700</u>
TOTAL	\$464,500	\$586,000		\$1,050,500
III. COMMUNICATIONS:				
FROM:				
Fish and Game Expendable Trust				
Fund		\$45,000		\$45,000
Fish and Game (Federal)				
Fund	<u>\$15,300</u>	<u>105,000</u>		<u>120,300</u>
TOTAL	\$15,300	\$150,000		\$165,300
GRAND TOTAL	\$677,500	\$1,352,400	\$200,000	\$2,229,900

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 10, 2014

CHAPTER 6
(S.B. No. 1217)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE COMMISSION FOR PARDONS AND PAROLE FOR FISCAL YEAR 2014; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 230, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated \$95,000 from the General Fund to the Commission for Pardons and Parole, to be expended for operating expenditures, for the period July 1, 2013, through June 30, 2014.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 10, 2014

CHAPTER 7
(S.B. No. 1218)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2014; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 2, Chapter 127, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated \$30,000 from the General Fund to the Office of the State Appellate Public Defender, to be expended for operating expenditures, for the period July 1, 2013, through June 30, 2014.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 10, 2014

CHAPTER 8
(S.B. No. 1245)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2014; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS FOR FISCAL YEAR 2014; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 3, Chapter 318, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated from the General Fund to the Department of Correction, for the state-owned and state-operated Idaho Correctional Center, the following amounts to be expended for the designated expense classes, for the period July 1, 2013, through June 30, 2014:

FOR:

Personnel Costs	\$1,179,400
Operating Expenditures	306,500
Capital Outlay	<u>445,300</u>
TOTAL	\$1,931,200

SECTION 2. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Department of Correction in Section 4, Chapter 318, Laws of 2013, is increased by ninety (90) for the period July 1, 2013, through June 30, 2014.

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

Approved February 13, 2014

CHAPTER 9
(H.B. No. 374)

AN ACT

RELATING TO INCOME TAXATION; AMENDING SECTION 63-3022, IDAHO CODE, TO CLARIFY THAT A NET OPERATING LOSS CARRYBACK IS LIMITED TO FIFTY THOUSAND DOLLARS FOR AN INDIVIDUAL FILING AS MARRIED FILING SEPARATE IN THE YEAR OF THE LOSS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-3025B, IDAHO CODE, TO ADD A REFERENCE TO THE INTERNAL REVENUE CODE RELATING TO FAILURE TO FILE A RETURN, TO CORRECT A CITE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3033, IDAHO CODE, TO PROVIDE A CORRECT CITATION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3022, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022. ADJUSTMENTS TO TAXABLE INCOME. The additions and subtractions set forth in this section, and in sections 63-3022A through 63-3022R, Idaho Code, are to be applied to the extent allowed in computing Idaho taxable income:

(a) Add any state and local taxes, as defined in section 164 of the Internal Revenue Code that are measured by net income, or for which a credit is allowable under section 63-3029, Idaho Code, and paid or accrued during the taxable year adjusted for state or local tax refunds used in arriving at taxable income.

(b) Add the net operating loss deduction used in arriving at taxable income.

(c) (1) A net operating loss for any taxable year commencing on and after January 1, 2000, but before January 1, 2013, shall be a net operating loss carryback not to exceed a total of one hundred thousand dollars (\$100,000) to the two (2) immediately preceding taxable years. At the election of the taxpayer, the two (2) year carryback may be foregone and the loss subtracted from income received in taxable years arising in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted. The election shall be made as under section 172(b) (3) of the Internal Revenue Code. An election under this subsection must be in the manner prescribed in the rules of the state tax commission and once made is irrevocable for the year in which it is made.

(2) A net operating loss for any taxable year commencing on or after January 1, 2013, shall be a net operating loss carryback not to exceed a total of one hundred thousand dollars (\$100,000) to the two (2) immediately preceding taxable years only if an amended return carrying the loss back is filed within one (1) year of the end of the taxable year of the net operating loss that results in such carryback.

(3) Any portion of the net operating loss not subtracted from income in the two (2) preceding years may be subtracted from income in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted. The sum of the deductions may not exceed the amount of the net operating loss deduction incurred. The carryback shall be limited to a total of fifty thousand dollars (\$50,000) in the case of an individual filing as married filing separate in the year of the loss.

(4) Net operating losses incurred by a corporation during a year in which such corporation did not transact business in Idaho or was not included in a group of corporations combined under subsection (t) of

section 63-3027, Idaho Code, may not be subtracted. However, if at least one (1) corporation within a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, was transacting business in Idaho during the taxable year in which the loss was incurred, then the net operating loss may be subtracted. Net operating losses incurred by a person, other than a corporation, in activities not taxable by Idaho may not be subtracted.

(5) The term "income" as used in this subsection (c) means Idaho taxable income as defined in this chapter as modified by section 63-3021(b) (2), (3) and (4), Idaho Code.

(d) In the case of a corporation, add the amount deducted under the provisions of sections 243(a) and (c), 244, 245 and 246A of the Internal Revenue Code (relating to dividends received by corporations) as limited by section 246(b) (1) of said code.

(e) In the case of a corporation, subtract an amount determined under section 78 of the Internal Revenue Code to be taxable as dividends.

(f) Subtract the amount of any income received or accrued during the taxable year which is exempt from taxation by this state, under the provisions of any other law of this state or a law of the United States, if not previously subtracted in arriving at taxable income.

(g) For the purpose of determining the Idaho taxable income of the beneficiary of a trust or of an estate:

(1) Distributable net income as defined for federal tax purposes shall be corrected for the other adjustments required by this section.

(2) Net operating losses attributable to a beneficiary of a trust or estate under section 642 of the Internal Revenue Code shall be a deduction for the beneficiary to the extent that income from the trust or estate would be attributable to this state under the provisions of this chapter.

(h) In the case of an individual who is on active duty as a full-time officer, enlistee or draftee, with the armed forces of the United States, which full-time duty is or will be continuous and uninterrupted for one hundred twenty (120) consecutive days or more, deduct compensation paid by the armed forces of the United States for services performed outside this state. The deduction is allowed only to the extent such income is included in taxable income.

(i) In the case of a corporation, including any corporation included in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, add any capital loss or passive loss deducted which loss was incurred during any year in which such corporation did not transact business in Idaho. However, do not add any capital loss deducted if a corporation, including any corporation in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, was transacting business in Idaho during the taxable year in which the loss was incurred. In the case of persons other than corporations, add any capital loss or passive loss deducted which was incurred in activities not taxable by Idaho at the time such loss was incurred. In computing the income taxable to an S corporation or partnership under this section, deduction shall not be allowed for a carryover or carry-back of a net operating loss provided for in subsection (c) of this section, a passive loss or a capital loss or ~~passive loss~~ provided for in section 1212 of the Internal Revenue Code.

(j) In the case of an individual, there shall be allowed as a deduction from gross income either (1) or (2) at the option of the taxpayer:

(1) The standard deduction as defined in section 63, Internal Revenue Code.

(2) Itemized deductions as defined in section 63 of the Internal Revenue Code except state or local taxes measured by net income and general sales taxes as either is defined in section 164 of the Internal Revenue Code.

(k) Add the taxable amount of any lump sum distribution excluded from gross income for federal income tax purposes under the ten (10) year averaging method. The taxable amount will include the ordinary income portion and the amount eligible for the capital gain election.

(l) Deduct any amounts included in gross income under the provisions of section 86 of the Internal Revenue Code relating to certain social security and railroad benefits.

(m) In the case of a self-employed individual, deduct the actual cost of premiums paid to secure worker's compensation insurance for coverage in Idaho, if such cost has not been deducted in arriving at taxable income.

(n) In the case of an individual, deduct the amount contributed to a college savings program pursuant to chapter 54, title 33, Idaho Code, but not more than four thousand dollars (\$4,000) per tax year. If the contribution is made on or before April 15, 2001, it may be deducted for tax year 2000 and an individual can make another contribution and claim the deduction according to the limits provided in this subsection during 2001 for tax year 2001, as long as the contribution is made on or before December 31, 2001.

(o) In the case of an individual, add the amount of a nonqualified withdrawal from an individual trust account or savings account established pursuant to chapter 54, title 33, Idaho Code, less any amount of such nonqualified withdrawal included in the individual's federal gross income pursuant to section 529 of the Internal Revenue Code.

(p) In the case of an individual, add the amount of a withdrawal from an individual trust account or savings account established pursuant to chapter 54, title 33, Idaho Code, transferred to a qualified tuition program, as defined in section 529 of the Internal Revenue Code, that is operated by a state other than Idaho. The addition provided in this subsection is limited to the amount of the contributions to the Idaho individual trust account or savings account by the account owner that were deducted on the account owner's income tax return for the year of the transfer and the prior taxable year.

SECTION 2. That Section 63-3025B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3025B. ORGANIZATIONS EXEMPT FROM THE TAX IMPOSED BY THIS CHAPTER. (1) Except as provided in subsection (4) of this section, an organization described in section 501 of the ~~i~~Internal ~~r~~Revenue ~~e~~Code, and the additional organizations listed below in this section shall be specifically exempt from taxation under this chapter unless such exemption is denied under section 502, 503, ~~or~~ 504 or 6033j of the ~~i~~Internal ~~r~~Revenue ~~e~~Code:

(a) Fraternal beneficiary societies, orders, or associations, operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system;

(b) Farmer's or other mutual hail, cyclone, casualty, or fire insurance companies or associations, (including interinsurers and reciprocal underwriters of the same class), the income of which is used or held only for the purpose of paying losses or expenses;

(c) Federal land banks and national farm loan associations, as provided in the federal farm loan credit act of 1971, as amended.

(2) Farmer's cooperatives shall be exempt from taxation under this chapter to the extent exempted by section 521 of the ~~i~~Internal ~~r~~Revenue ~~e~~Code.

(3) Federal savings and loan associations shall not be exempt from taxation under this chapter.

(4) Unrelated business income as defined in the ~~i~~Internal ~~r~~Revenue ~~e~~Code shall be subject to taxation under this chapter.

SECTION 3. That Section 63-3033, Idaho Code, be, and the same is hereby amended to read as follows:

63-3033. EXTENSION OF TIME. (a) Taxpayers shall have an automatic extension of time for filing any return, declaration, statement or other document required by this chapter for a period of six (6) months if on or before the unextended due date the taxpayer has paid at least eighty percent (80%) of the total tax due on the income tax return when it is filed, or the total tax due on the income tax return for the prior year if a return was filed for the prior year.

(b) If, on the unextended due date, the payment required to meet the provisions of subsection (a) of this section, after consideration of any previous credits or payments applicable to the return, is fifty dollars (\$50.00) or less, such payment shall not be required in order to qualify for the extension. However, interest shall accrue as provided in subsection (f) of this section. Payment of any balance of tax is due on the earlier of the extended due date or the date the return is filed.

(c) Taxpayers residing outside any of the United States and Puerto Rico (including persons in military or naval service) shall have an automatic extension of time within which to file income tax returns with this state for a period which shall expire on the fifteenth day of the sixth month following the close of their taxable year.

(d) Individuals who are entitled to extensions for filing federal income tax returns as a result of the application of the provisions of sections 911 and 7508 of the Internal Revenue Code, shall be entitled to extensions of time for the same period for filing income tax returns with the state of Idaho subject to the requirements imposed in implementation of the indicated sections.

(e) Any taxpayer entitled to an extension under subsection (c) or (d) of this section shall attach a statement to his return claiming his right to the extension.

(f) If the amount of payment made under subsection (a) of this section is less than eighty percent (80%) of the total tax due under the provisions of this chapter and is less than the amount of the total tax due on the income tax return for the prior year, except as permitted by subsection (b) of this section, a penalty may be applied to the total of the balance due unless reasonable cause can be established. The penalty shall be:

(1) If the taxes for the taxable year are paid on or before the extended due date, two percent (2%) per month from the original due date to the date of payment.

(2) If the taxes for the taxable year are not paid on or before the extended due date, the penalty provided in section 63-3046(c), Idaho Code, from the original due date.

(g) In all cases of an extension of time in which to file any return, except for those related to section 7508 of the Internal Revenue Code, interest shall be paid on any tax due from the original due date to date of payment at the rate provided in section 63-3045, Idaho Code. For an individual entitled to an extension of time allowed by subsection (d) of this section and section 7508 of the Internal Revenue Code, interest shall be paid on any tax due from the extended due date allowed in subsection (d) of this section to the date of payment.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2014.

CHAPTER 10
(H.B. No. 375)

AN ACT

RELATING TO TAXES; AMENDING SECTION 63-3004, IDAHO CODE, TO UPDATE REFERENCES TO THE INTERNAL REVENUE CODE AND TO CLARIFY THAT A MARRIAGE MUST BE VALID AND MUST BE RECOGNIZED UNDER THE CONSTITUTION OF THE STATE OF IDAHO AND IDAHO STATUTES AND TO MAKE A TECHNICAL CORRECTION; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3004, Idaho Code, be, and the same is hereby amended to read as follows:

63-3004. INTERNAL REVENUE CODE. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States, as amended, and in effect on the first day of January, 2013~~4~~.

(b) Provisions of the Internal Revenue Code amended, deleted, or added prior to the effective date of the latest amendment to this section shall be applicable for Idaho income tax purposes on the effective date provided for such amendments, deletions, or additions, including retroactive provisions.

(c) For all purposes of the Idaho income tax act, a marriage must be one that is considered valid or recognized under section 28, article III, of the constitution of the state of Idaho and defined in section 32-201, Idaho Code, or as recognized under section 32-209, Idaho Code.

SECTION 2. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2014.

Approved February 13, 2014

CHAPTER 11
(H.B. No. 385)

AN ACT

RELATING TO THE PUBLIC SCHOOL FACILITIES COOPERATIVE FUNDING PROGRAM; AMENDING SECTION 33-909, IDAHO CODE, TO PROVIDE FOR MODIFICATIONS TO A PLAN, TO ESTABLISH PROVISIONS RELATING TO THE STATE FIRE MARSHAL, TO PROVIDE THAT A DISTRICT'S SHARE OF COSTS SHALL BE BASED UPON ACTUAL FUNDS EXPENDED AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-909, Idaho Code, be, and the same is hereby amended to read as follows:

33-909. PUBLIC SCHOOL FACILITIES COOPERATIVE FUNDING PROGRAM -- FUND CREATED. (1) In fulfillment of the constitutional requirement to provide a general, uniform and thorough system of public, free common schools, it is the intent of the state of Idaho to advance its responsibility for providing a safe environment conducive to learning by providing a public school facilities funding program to enable qualifying school districts to address unsafe facilities identified as unsafe under the standards of the Idaho uniform school building safety act.

(2) Participation in the program, for the purpose of obtaining state financial support to abate identified school building safety hazards, requires submission of an application to the public school facilities cooperative funding program panel. Application can be made by:

(a) Any school district that has failed to approve at least one (1) or more bond levies for the repair, renovation or replacement of existing unsafe facilities, within the two (2) year period immediately preceding submission of the application; or

(b) The administrator of the division of building safety, for a school district that has failed to address identified unsafe facilities as provided in chapter 80, title 39, Idaho Code.

(3) There is hereby created within the office of the state board of education the Idaho public school facilities cooperative funding program panel, hereafter referred to as the panel. The panel shall consist of the administrator of the division of building safety, the administrator of the division of public works and the executive director of the state board of education, or a designee appointed by a panel member. It shall be the duty of the panel to consider all applications made to it, and to approve, modify or reject an application based ~~on~~ upon the most economical solution to the problem, as analyzed within a projected twenty (20) year time frame.

(4) The application shall contain the following information:

(a) The identified school building safety hazards and such other information necessary to document the deficiencies;

(b) The school district's plan for abating the defects, including costs and sources and amounts of revenue available to the school district;

(c) The market value for assessment purposes of the school district; and

(d) A detailed accounting of all bond and plant facility levies of the school district and the revenues raised by such levies.

For applications initiated by the administrator of the division of building safety pursuant to subsection (2) (b) of this section, the school district shall provide the information required in this subsection ~~(4)~~ if such information is not available to the administrator.

(5) (a) If the panel determines that it requires additional plans and information, it may authorize the expenditure of up to one hundred fifty thousand dollars (\$150,000) per application from the public school facilities cooperative fund for the procurement thereof. In considering an application, the panel shall determine whether the plan as proposed is acceptable, or is acceptable with modifications as determined by the panel, or should be rejected. If the application is approved or approved with modifications, any expenditures authorized by the panel pursuant to this subsection shall be added to the project. The panel shall notify the applicant of its decision, in writing, within ninety (90) days of receiving the application. At the same time the panel notifies the applicant, the panel shall send notification of an approved application or a modified application to the state board of education, along with the panel's specifications for the project and its cost.

(b) The panel may, upon the recommendation of the district supervisor, authorize modifications to the approved plan at any time prior to the completion of the project, giving consideration to the interests of the school district, the students and the electors in its determination. Such modification may alter the scope of work or terminate the approved plan. All modifications must meet the standards as outlined in this section.

(6) If an application received from a school district is accepted or modified by the panel, the local board of trustees of that school district, at the next election held pursuant to section 34-106, Idaho Code, shall submit the question to the qualified electors of the school district of whether to approve a bond in the amount of the cost of the project as approved by the panel.

(7) Within thirty-five (35) calendar days of receiving notification from the panel that an application submitted by the administrator of the division of building safety pursuant to subsection (2) (b) of this section has been approved or modified by the panel, or within thirty-five (35) calendar days of receiving certification from the panel that the question submitted to the electorate pursuant to subsection (6) of this section was not approved in the election, the state board of education shall appoint a district supervisor for interim state supervision of the local school district. The district supervisor shall be responsible for ensuring that the project, as approved by the panel, is completed and shall regularly report to the panel in a manner as determined by the panel upon approval of the project. The district supervisor shall also have the authority granted to said position by the provisions of section 6-2212, Idaho Code. A district supervisor's term of service shall continue for the duration of the project, and such person appointed as a district supervisor shall serve at the pleasure of the state board of education.

(8) The abatement of unsafe public school facilities through the public school facilities cooperative funding program shall be performed exclusively in accordance with the regular permitting, plan review and inspection requirements of the division of building safety. The state fire marshal shall have exclusive authority to perform the powers and duties prescribed in section 41-254, Idaho Code, for such facilities while the unsafe condition is being abated and under the jurisdiction of the panel-appointed district supervisor. The Idaho building code board shall function as a board of appeals for the division of building safety for such construction in accordance with the provisions of section 39-4107, Idaho Code. Upon successful completion of the construction in accordance with applicable building codes, a certificate of occupancy shall be issued by the administrator of the division of building safety. Upon issuance of a certificate of occupancy, responsibility for ensuring the safety of the facility or portion thereof so constructed will then be returned to the school district and responsibility

for ensuring subsequent compliance with building codes returned to the authority having jurisdiction.

(9) Upon approval of an application or a modified application submitted by the administrator of the division of building safety pursuant to subsection (2) (b) of this section, or upon receipt of certification from the county that the question submitted to the electorate pursuant to subsection (6) of this section was not approved in the election, the panel shall certify the cost of the project, as approved by the panel, to the state department of education.

(a) The total cost of the project shall initially be paid by the state from the public school facilities cooperative fund. If the district supervisor determines that the amount approved by the panel is insufficient to complete the project in a satisfactory manner, the panel may request a legislative appropriation of additional moneys from the public school facilities cooperative fund. If such an appropriation is approved, these additional moneys shall be added to the cost of the project.

(b) The district's share of costs shall be based upon actual funds expended. The district's share of costs that may be repaid through the levy provisions of this section shall not exceed the district's share of bond payment costs as calculated for the bond levy equalization support program in the fiscal year in which the application is made. Interest shall be charged on the unpaid balance of the district's share of costs, as such balance exists at the end of each fiscal year, at the rate of interest earned by the state treasurer on the investment of idle funds in that fiscal year.

(c) It shall be the responsibility of the state department of education to calculate a state-authorized plant facilities levy rate in accordance with the provisions of subsection (10) of this section, which, when imposed over a maximum period not to exceed twenty (20) years, may yield the revenues needed to repay the school district's share of the cost of the project.

(d) The levy rate calculated by the state department of education shall be certified by the department to the county or counties wherein the boundaries of the school district are contained, for assessment of the levy and collection of the revenues by such county or counties in the manner provided by law. The revenues collected by imposition of the state-authorized plant facilities levy shall be remitted to the state treasurer for deposit to the public school facilities cooperative fund.

(10) The annual state-authorized plant facilities levy rate shall be limited to the greater of:

(a) The difference between the school district's combined bond and plant facilities levy rates, and the statewide average bond and plant facility levy rates; or

(b) The statewide average plant facility levy rate.

The initial levy rate so calculated shall be established as the minimum levy rate that shall be imposed for the amount of time required to reimburse the state for the school district's share of the project cost, but not to exceed twenty (20) years, even if this period would not provide reimbursement of the entire amount of the school district's share of the cost of the project. The state department of education is authorized and directed to recalculate the levy rate on an annual basis and is authorized to increase or decrease the levy rate according to the scheduled payback, but the levy rate shall not be less than the levy rate initially imposed. Provided however, if the levy rate calculated is estimated to raise more money than would be necessary to repay the district's share of costs, then the state department of education shall certify to the county or counties wherein the boundaries of the school district are contained, the moneys necessary to repay the district's share of costs.

(11) There is hereby created in the state treasury a public school facilities cooperative fund. The fund shall contain such moneys as may be directed pursuant to appropriation. Moneys in the fund shall be used exclusively to finance the public school facilities cooperative funding program and are hereby continuously appropriated for such purposes as authorized by this section. Moneys in the fund shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other idle moneys in the state treasury. Interest earned on the investments shall be credited to the school district building account.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 13, 2014

CHAPTER 12
(H.B. No. 407)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE
PURCHASING PROGRAM FOR FISCAL YEAR 2014; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 2, Chapter 295, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated from the Administration and Accounting Services Fund to the Department of Administration for the Purchasing Program, the following amounts to be expended for the designated expense classes, for the period July 1, 2013, through June 30, 2014:

FOR:

Operating Expenditures	\$132,300
Capital Outlay	<u>32,500</u>
TOTAL	\$164,800

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 13, 2014

CHAPTER 13
(S.B. No. 1201)

AN ACT
RELATING TO MOTOR VEHICLE REGISTRATION; AMENDING SECTION 49-402, IDAHO
CODE, TO REMOVE A PROVISION RELATING TO CONTRIBUTIONS TO THE ORGAN
DONATION CONTRIBUTION FUND AND TO MAKE A TECHNICAL CORRECTION; AMENDING
SECTION 49-401B, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCES AND TO
MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 67-4223A, IDAHO CODE,
TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-402. ANNUAL REGISTRATION. (1) The annual fee for operating each pickup truck, each neighborhood electric vehicle and each other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds and that complies with the federal motor vehicle safety standards as defined in section 49-107, Idaho Code, shall be:

Vehicles one (1) and two (2) years old	\$48.00
Vehicles three (3) and four (4) years old	\$36.00
Vehicles five (5) and six (6) years old	\$36.00
Vehicles seven (7) and eight (8) years old	\$24.00
Vehicles over eight (8) years old	\$24.00

There shall be twelve (12) registration periods, starting in January for holders of validation registration stickers numbered 1, and proceeding consecutively through December for holders of validation registration stickers numbered 12, each of which shall start on the first day of a calendar month and end on the last day of the twelfth month from the first day of the beginning month. Registration periods shall expire midnight on the last day of the registration period in the year designated by the validation registration sticker. The numeral digit on the validation registration stickers shall, as does the registration card, fix the registration period under the staggered registration system for the purpose of reregistration and notice of expiration.

A vehicle that has once been registered for any of the above designated periods shall, upon reregistration, be registered for the period bearing the same number, and the registration card shall show and be the exclusive proof of the expiration date of registration and licensing. Vehicles may be initially registered for less than a twelve (12) month period, or for more than a twelve (12) month period, and the fee prorated on a monthly basis if the fractional registration tends to fulfill the purpose of the monthly series registration system.

(2) For all school buses operated either by a nonprofit, nonpublic school or operated pursuant to a service contract with a school district for transporting children to or from school or in connection with school approved activities, the annual fee shall be twenty-four dollars (\$24.00) and shall be subject to staggered registration for the purpose of reregistration and notice of expiration.

(3) For all motorcycles and motor-driven cycles which comply with the federal motor vehicle safety standards, operated upon the public highways, the annual fee shall be nine dollars (\$9.00) and shall be subject to staggered registration for the purpose of reregistration and notice of expiration.

(4) For operation of an all-terrain vehicle, utility type vehicle or motorbike, excluding a motorbike with an engine displacement of fifty (50) cubic centimeters or less, on city, county or highway district roads or highways open to such use, a restricted vehicle license plate fee pursuant to section 49-450, Idaho Code, shall be paid. In addition, the registration fee specified in section 67-7122, Idaho Code, shall be paid as provided in section 67-7122, Idaho Code. The registration and restricted vehicle license plate exemption provided in section 49-426(2), Idaho Code, applies to all-terrain vehicles, utility type vehicles, motorbikes and motorcycles used for the purposes described in subsection (2) of section 49-426, Idaho Code. Nonresidents shall be allowed to purchase a restricted vehicle license plate and sticker for an all-terrain vehicle, utility type vehicle or motorbike.

(5) For all motor homes the fee shall be as specified in subsection (1) of this section and shall be in addition to the fees provided for in section 49-445, Idaho Code.

(6) Registration fees shall not be subject to refund.

~~(7) A person who applies for motor vehicle registration or motor vehicle registration renewal may designate a voluntary contribution of two dollars (\$2.00) for the purpose of promoting and supporting organ donation. Such a contribution shall be treated as a voluntary contribution to the organ donation contribution fund created in section 49-2447, Idaho Code, and not as a motor vehicle registration fee. Each voluntary contribution of two dollars (\$2.00), less actual administrative costs associated with collecting and transferring such contributions, shall be deposited into the organ donation contribution fund.~~

~~(8) A financial institution or repossession service contracted to a financial institution repossessing vehicles under the terms of a security agreement shall move the vehicle from the place of repossession to the financial institution's place of business on a repossession plate. The repossession plate shall also be used for demonstrating the vehicle to a prospective purchaser for a period not to exceed ninety-six (96) hours. The registration fees for repossession plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho Code, shall be in addition to the registration fee. The repossession plate shall be subject to staggered registration for the purpose of reregistration and notice of expiration.~~

~~(98) A wrecker or towing business engaged in the process of towing motorized vehicles, which have been wrecked, abandoned, salvaged or may be disabled, may apply for a wrecker plate to be displayed on those vehicles being towed, provided the power unit is properly registered under this chapter. The registration fees for wrecker plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho Code, shall be in addition to the registration fee and shall be subject to staggered registration for the purpose of reregistration and notice of expiration.~~

~~(109) In addition to the annual registration fee in this section, there shall be an initial program fee of twenty-five dollars (\$25.00) and an annual program fee of fifteen dollars (\$15.00) for all special license plate programs for those license plates issued pursuant to sections 49-404A, 49-407, 49-408, 49-409, 49-414, 49-416, 49-418 and 49-418D, Idaho Code. For special plates issued pursuant to sections 49-406 and 49-406A, Idaho Code, there shall be an initial program fee of twenty-five dollars (\$25.00) but there shall be no annual renewal fee. For special plates issued pursuant to sections 49-415C, 49-415D, 49-415E, 49-416A, 49-416B, 49-416C, 49-416D, 49-416E, 49-417, 49-417A, 49-417B, 49-417C, 49-417D, 49-417E, 49-418A, 49-418B, 49-418C, 49-418E, 49-419, 49-419A, 49-419B, 49-419C, 49-419D, 49-419E, 49-420, 49-420A, 49-420B, 49-420C, 49-420D, 49-420E, 49-420G, 49-420H, 49-420I, 49-420J, 49-420K and 49-420L, Idaho Code, and any new special plate program effective on and after January 1, 2013, pursuant to section 49-402D, Idaho Code, there shall be an initial program fee of thirty-five dollars (\$35.00) and an annual program fee of twenty-five dollars (\$25.00). The fees contained in this subsection shall be applicable to all new special plate programs and shall be subject to staggered registration for the purpose of reregistration and notice of expiration. The initial program fee and the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law.~~

~~(110) Any vehicle that does not meet federal motor vehicle safety standards shall not be registered and shall not be permitted to operate on public highways of the state, as defined in section 40-117, Idaho Code, unless otherwise specifically authorized.~~

~~(121) In addition to annual registration fees as provided in this section, registrants may pay a fee to purchase an Idaho state parks passport authorizing resident motor vehicle entry into all Idaho state parks. Reg-~~

istrants may pay the fee for a one (1) year or two (2) year period of time. The fee shall be ten dollars (\$10.00) for one (1) year and twenty dollars (\$20.00) for two (2) years. All fees collected pursuant to this subsection shall be deposited into the park and recreation fund and shall be subject to appropriation. Fees collected pursuant to this subsection shall not be considered a motor vehicle registration fee as provided in section 17, article VII, of the constitution of the state of Idaho.

SECTION 2. That Section 49-401B, Idaho Code, be, and the same is hereby amended to read as follows:

49-401B. APPLICATION FOR REGISTRATION -- RECEIPT FOR FEE -- RECORD OF APPLICANTS. (1) Application for the registration of a vehicle required to be registered under the provisions of section 49-401A, Idaho Code, shall be made to the assessor or the department as specified in that section, by the owner upon the appropriate form. Every application shall contain the owner's Idaho driver's license number, Idaho identification card number, or social security number. In the case of a business, the employer tax identification number is required. Every application shall also contain the owner's true and full legal name. In the event that the owner does not possess a social security number, Idaho driver's license number, or Idaho identification card number, the owner shall present written documentation sufficient to the department to determine that no social security number has been issued. In the event that a business, trust or other statutorily created entity is not required to have and does not possess an employer tax identification number, the applicant shall provide a written statement certifying that the entity does not possess an employer tax identification number. Such application must be signed by the owner and contain his residence address and a brief description of the vehicle to be registered, including the name of the maker, the type of fuel used, and the identification number. If an applicant has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the applicant may state, in the application required pursuant to this section, the applicant's alternative Idaho mailing address in place of his or her residence address. Upon registration of a new vehicle, the application shall also show the date of sale by the manufacturer or dealer to the person first operating such vehicle. The application shall contain any other information as may be required by the department and shall contain a provision that allows an owner to choose to participate in the Idaho state parks passport program. The assessor shall issue to the applicant a receipt for any fee paid. Social security numbers collected shall not appear on certificates of registration, and all applications on file shall be exempt from disclosure, except as provided in sections 49-202, 49-203 and 49-203A, Idaho Code.

(2) The assessor shall record on a form prescribed and furnished by the department, the names of all owners of vehicles residing in the county who make application for registration, together with the amounts of the fees paid by such owners.

(3) When application for registration is made by any motor carrier, the assessor or the department shall require each such applicant to execute a certification of safety compliance.

(4) Vehicles registered under the proportional registration provisions of section 49-435, Idaho Code, shall be registered by the department.

(5) Every owner of a vehicle registered by a county assessor shall give his physical domicile residence address or the business¹ physical principal address to the assessor so that the proper county can be entered upon the registration. Failure to do so shall be unlawful. The department shall then attribute the registration, and all fees to be apportioned to the highway distribution account, to the county of residence regardless of the county in which the registration occurred. Fees imposed under the provisions of

sections 40-827 and 40-1416, Idaho Code, shall be separately identified and accounted for, and paid to the highway district for which collected. Fees collected in addition to vehicle registration fees for the Idaho state parks passport program, as provided in section 49-402(121), Idaho Code, shall be separately identified and accounted for and paid to the state treasurer on a monthly basis to be deposited in the park and recreation fund as specified in section 49-402(121), Idaho Code. For the purposes of vehicle registration, a person is an actual and permanent resident of the county in which he has his principal residence or domicile. A principal residence or domicile shall not be a person's workplace, vacation, or part-time residence.

(6) A violation of the provisions of this section shall be an infraction.

SECTION 3. That Section 67-4223A, Idaho Code, be, and the same is hereby amended to read as follows:

67-4223A. IDAHO STATE PARKS PASSPORT PROGRAM -- FEE. Upon payment of the fee as provided in section 49-402(121), Idaho Code, the purchaser shall be authorized to enter all Idaho state parks without paying the motor vehicle entrance fee for either a one (1) or two (2) year period of time, dependent on the fee paid by the purchaser. The provisions of this section shall not preclude the department from continuing to sell daily and annual motor vehicle entrance passes to Idaho residents who choose not to participate in the Idaho state parks passport program and to any nonresident visiting Idaho state parks.

Approved February 19, 2014

CHAPTER 14
(S.B. No. 1236)

AN ACT

RELATING TO PROPERTY TAX NOTICES; AMENDING SECTION 63-902, IDAHO CODE, TO ALLOW PROPERTY TAX NOTICES TO BE FURNISHED TO TAXPAYERS ELECTRONICALLY UPON CERTAIN CIRCUMSTANCES OCCURRING.

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

SECTION 1. That Section 63-902, Idaho Code, be, and the same is hereby amended to read as follows:

63-902. PROPERTY TAX NOTICE AND RECEIPTS -- DUTY OF TAX COLLECTOR. (1) For property on the property roll or operating property roll, the county tax collector must, prior to the fourth Monday of November in each year, mail or transmit electronically, as that term is defined in section 63-115, Idaho Code, if electronic transmission is requested by the taxpayer, to every taxpayer, or to his agent or representative, at his last known post-office address, a tax notice prepared upon forms prescribed in section 63-219, Idaho Code, which shall contain at least the following:

- (a) The year in which the property tax was levied;
- (b) The name and address of the property owner;
- (c) An accurate description of the property, or in lieu thereof, the tax number of record;
- (d) The parcel number;
- (e) Full market value for assessment purposes;
- (f) The total amount of property taxes due:
 - (i) State;
 - (ii) County;

- (iii) City;
- (iv) School district separately shown as:
 - (A) Maintenance and operation;
 - (B) Bond;
 - (C) Supplemental;
 - (D) Other;
- (v) And every other tax being separately shown.
- (g) All property tax levies in the tax code area;
- (h) The date when such property taxes become delinquent;
- (i) Notation of delinquencies against said property;
- (j) Whether an interim payment account exists;
- (k) The different payment options available to the taxpayer, his agent or representative shall be printed in boldface type in a contrasting color or highlighted on the face of the tax notice.
- (2) The tax notices shall be numbered consecutively and the numbers must be entered upon all property rolls.
- (3) Tax notices prepared in tax code area format shall state that levy sheets are available to the public.
- (4) Levy sheets shall list the total property tax levy for each taxing district or taxing jurisdiction and the total in each tax code area.
- (5) If the taxpayer is one other than the equitable titleholder, such as an escrowee, trustee of trust deed or other third party, the taxpayer shall deliver to the equitable titleholder a statement of the total amount of property taxes billed, on or before the second Monday of December.
- (6) The tax collector in each county of the state is authorized to destroy all duplicate property tax receipts and microfilm of tax receipts on file in his office as they reach ten (10) years old. Property tax receipts may be destroyed if information has been replicated in other storage media.
- (7) Computer and data processing routines for completion of all phases of the property tax roll procedures may be utilized with the responsibility for completion of each office's statutory duties to remain under the supervision of that office. Wherever the designation "property roll" appears within title 63, data processing or computer procedures and forms may be substituted as permanent records.
- (8) The county tax collector must, as soon as possible after the subsequent or missed property roll is delivered to him from the county auditor, mail or transmit electronically, if electronic transmission is requested by the taxpayer, a notice to every taxpayer listed on the subsequent or missed property roll, or to his agent or representative. The notice shall conform as nearly as possible to the notice required for property listed on the property roll.
- (9) Failure to mail or transmit electronically, if electronic transmission is requested by the taxpayer, such property tax notice, or receipt of said notice by the taxpayer, shall not invalidate the property taxes, or any proceedings in the collection of property taxes, or any proceedings in the foreclosure of property tax liens.
- (10) No charge, other than property taxes, shall be included on a tax notice unless the entity placing such charge has received approval from the board of county commissioners to place such charge on the tax notice and such entity:
 - (a) Has the authority by law to place a lien on property; and
 - (b) Has the authority to certify such charge to the auditor; and
 - (c) Is required to collect such charge in the same manner provided by law for the collection of real and personal property taxes.
- (11) If a taxpayer requests to receive a tax notice electronically, the request must be made on a form provided by the county tax collector.

CHAPTER 15
(S.B. No. 1237)

AN ACT

RELATING TO TAX DEEDS; AMENDING SECTION 63-1007, IDAHO CODE, TO INCREASE THE AMOUNT OF TIME FOR THE RIGHT OF REDEMPTION FOR A TAX DEED AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 63-1007, Idaho Code, be, and the same is hereby amended to read as follows:

63-1007. REDEMPTION -- EXPIRATION OF RIGHT. (1) After the issuance of a tax deed, real property may be redeemed only by the record owner or owners, or party in interest, up to the time the county commissioners have entered into a contract of sale or the property has been transferred by county deed. In order to redeem real property, the record owner or owners, or party in interest, shall pay any delinquency including the late charges, accrued interest, and costs, including, but not limited to, title search and other professional fees. The property taxes accrued against such property subsequent to the issuance of a tax deed to the county shall be extended upon a valuation to be given by the assessor upon application of the tax collector. The property taxes shall be computed according to the authorized levies for the year or years to be extended, including the current calendar year which shall be calculated using the previous year's levies until the current levies are authorized.

(2) Should such payments be made, a redemption deed shall be issued by the county tax collector into the name of the redemptioner and the rights, title and interest acquired by the county shall cease and terminate; provided however, that such right of redemption shall expire ~~one (1) year~~ fourteen (14) months from the date of issuance of a tax deed to the county, in the event the county commissioners have not extinguished the right of redemption by contract of sale or transfer by county deed during said redemption period. In the event a tax deed is issued and payment is not received within ~~one (1) year~~ fourteen (14) months of the issuance of such tax deed, then said tax deed to the county is presumptive evidence of the regularity of all proceedings prior thereto and the fee simple title, after the issuance of said tax deed, rests in the county.

Approved February 19, 2014

CHAPTER 16
(H.B. No. 362)

AN ACT

RELATING TO THE STATE COMMUNITY COLLEGE ACCOUNT; AMENDING SECTION 33-2139, IDAHO CODE, TO PROVIDE THAT CERTAIN DISBURSEMENTS MAY BE ORDERED BY THE STATE BOARD OF EDUCATION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-2139, Idaho Code, be, and the same is hereby amended to read as follows:

33-2139. STATE COMMUNITY COLLEGE ACCOUNT CREATED. There is hereby created a state community college account in the state operating fund in the

state treasurer's office to which shall be credited all moneys which that may be transferred ~~to that account~~ pursuant to section 23-404(1) (b) (iii), Idaho Code. The state treasurer shall make such disbursements from the account as may be ordered by the state ~~liquor division~~ board of education in accordance with the provisions of this act.

Approved February 20, 2014

CHAPTER 17
(H.B. No. 381)

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3067A, IDAHO CODE, TO PROVIDE FOR DESIGNATION BY INDIVIDUALS OF A REFUND FOR AN OVERPAYMENT OF INCOME TAXES OR A DONATION BY INDIVIDUALS TO THE VETERANS SUPPORT FUND; AND AMENDING SECTION 65-209, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 63-3067A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3067A. DESIGNATION BY INDIVIDUALS -- TRUST ACCOUNTS. (1) Every individual who:

- (a) Has a refund due and payable for overpayment of taxes under this act may designate all or any portion thereof to be deposited in a trust account specified in subsection (3) of this section; or
- (b) Has an income tax liability may, in addition to his tax obligation, include a donation to be deposited in a trust account specified in subsection (3) of this section.

(2) A designation under subsection (1) of this section may be made in any taxable year in such manner and form as prescribed by the state tax commission. The manner and form so prescribed shall be a conspicuous portion of the principal form provided for the purpose of individual taxation.

(3) The trust accounts authorized to receive moneys designated under subsection (1) of this section are:

- (a) The fish and game set-aside account created by section 36-111, Idaho Code;
- (b) The Idaho ag in the classroom account created by section 57-815, Idaho Code;
- (c) The drug and driving while under the influence enforcement donation fund created by section 57-816, Idaho Code;
- (d) The children's trust fund created by section 39-6007, Idaho Code;
- (e) The special olympics Idaho fund created in section 57-823, Idaho Code;
- (f) The Idaho guard and reserve family support fund created by section 57-820, Idaho Code;
- (g) The American red cross of greater Idaho fund created in section 57-821, Idaho Code; and
- (h) The Idaho food bank fund created by section 57-824, Idaho Code; and
- (i) The veterans support fund created in section 65-209, Idaho Code.

(4) Prior to the distribution of funds into any of the trust accounts specified in subsection (3) of this section from the refund account, the state tax commission shall retain funds for the commission's costs for collecting and administering the moneys in the accounts as follows: three thousand dollars (\$3,000) from each account for start-up costs during the first year of collections, and three thousand dollars (\$3,000) or twenty

percent (20%) of the moneys remitted to each account during the fiscal year, whichever is less, from each account during each fiscal year thereafter, which amounts are hereby appropriated to the tax commission.

SECTION 2. That Section 65-209, Idaho Code, be, and the same is hereby amended to read as follows:

65-209. VETERANS SUPPORT FUND. (1) There is hereby created in the state treasury the "Veterans Support Fund" to which shall be credited:

(a) The moneys designated under sections 63-3067A and 63-3067B, Idaho Code, and the moneys designated under section 49-403B, Idaho Code;

(b) Gifts, grants, contributions and bequests to the fund;

(c) Interest earned on the investment of idle moneys in the fund, which shall be paid to the fund; and

(d) All other moneys as may be provided by law.

(2) Moneys in the fund shall be used exclusively for the purposes of programs to support veterans and to defray the costs of administering gold star license plates eligibility pursuant to section 49-403B, Idaho Code. Moneys in the fund shall be continuously appropriated for such purposes.

(3) Disbursements of moneys from the fund shall be made upon authorization of the administrator of the division of veterans services.

Approved February 20, 2014

CHAPTER 18
(H.B. No. 384)

AN ACT

RELATING TO INCOME TAX; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3022S, IDAHO CODE, TO PROVIDE THAT A MEMBER OF AN INDIAN TRIBE MAY DEDUCT INCOME EARNED ON A RESERVATION FROM TAXABLE INCOME; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3022S, Idaho Code, and to read as follows:

63-3022S. INCOME EARNED ON AN INDIAN RESERVATION. A taxpayer who is an enrolled member of a federally recognized Indian tribe who resides on the reservation of the Coeur d'Alene tribe, the Kootenai tribe of Idaho, the Nez Perce tribe, the Shoshone-Bannock tribes of the Fort Hall reservation or the Shoshone-Paiute tribes of the Duck Valley reservation may deduct from taxable income an amount equal to the taxpayer's income earned on the reservation of a tribe enumerated in this section, without regard to whether the reservation is the reservation of the tribe of which the taxpayer is an enrolled member.

SECTION 2. This act shall be in full force and effect retroactively to January 1, 2013.

Approved February 20, 2014

CHAPTER 19
(S.B. No. 1227)

AN ACT

RELATING TO HIGHWAYS; AMENDING CHAPTER 5, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-513E, IDAHO CODE, TO DESIGNATE THAT PORTION OF INTERSTATE HIGHWAY I-84 LOCATED IN IDAHO AS THE VIETNAM VETERANS MEMORIAL HIGHWAY.

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

SECTION 1. That Chapter 5, 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 40-513E, Idaho Code, and to read as follows:

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.

Approved February 20, 2014

CHAPTER 20
(S.B. No. 1213)

AN ACT

RELATING TO PROPERTY EXEMPT FROM TAXATION; AMENDING SECTION 63-602, IDAHO CODE, TO REVISE A DEFINITION AND ADD WELLS DRILLED FOR THE PRODUCTION OF OIL, GAS OR HYDROCARBON CONDENSATE TO THOSE EXEMPTIONS FOR WHICH ANNUAL APPLICATION AND APPROVAL BY THE BOARD OF COUNTY COMMISSIONERS APPLY; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-602, Idaho Code, be, and the same is hereby amended to read as follows:

63-602. PROPERTY EXEMPT FROM TAXATION. (1) Property shall be exempt from taxation as provided in titles 21, 22, 25, 26, 31, 33, 39, 41, 42, 49, 50, 67 and 70, Idaho Code, and in chapters 6, 24, 30, 35 and 45, title 63, Idaho Code; provided, that no deduction shall be made in assessment of shares of capital stock of any corporation or association for exemptions claimed under this section, and provided further, that the term "full cash value" wherever used in this act shall mean the actual assessed value of the property as to which an exemption is claimed.

(2) The use of the words "exclusive" or "exclusively" in this chapter shall mean used exclusively for any one (1) or more, or any combination of, the exempt purposes provided hereunder and property used for more than one (1) exempt purpose, pursuant to the provisions of sections 63-602A through 63-602NN 63-602OO, Idaho Code, shall be exempt from taxation hereunder so

long as the property is used exclusively for one (1) or more or any combination of the exempt purposes provided hereunder.

(3) All exemptions from property taxation claimed shall be approved annually by the board of county commissioners or unless otherwise provided:

(a) Exemptions pursuant to sections 63-602A, 63-602F, 63-602I, 63-602J, 63-602K for land of more than five (5) contiguous acres, 63-602L(1), 63-602M, 63-602R, 63-602S, 63-602U, 63-602V, 63-602W, 63-602Z, 63-602DD(1), 63-602EE, 63-602OO, 63-2431, 63-3502, 63-3502A and 63-3502B, Idaho Code, do not require application or approval by the board of county commissioners. For all other exemptions in title 63, Idaho Code, the process of applying is as specified in the exemption statutes or, if no process is specified and application is necessary to identify the property eligible for the exemption, annual application is required. Exemptions in other titles require no application.

(b) For exemptions that require an application, provided such exemptions are for property otherwise subject to assessment by the county assessor, the application must be made to the county commissioners by April 15 and the taxpayer and county assessor must be notified of any decision by May 15, unless otherwise provided by law. The decision of the county commissioners and any subsequent assessment notices sent to the taxpayer may be appealed to the county board of equalization pursuant to sections 63-501 and 63-501A, Idaho Code.

(c) For exemptions that require an application, provided such exemptions are for property otherwise subject to assessment by the state tax commission, application for exemption shall be included with the annual operator's statement as required pursuant to section 63-404, Idaho Code. Notice of the decision and its effect on the assessment will be provided in accordance with procedures specified in chapter 4, title 63, Idaho Code. Appeals shall be to the state tax commission in accordance with section 63-407, Idaho Code.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2014.

Law without signature

CHAPTER 21
(S.B. No. 1235)

AN ACT

RELATING TO PLATS AND VACATIONS; AMENDING SECTION 50-1306A, IDAHO CODE, TO REVISE PROCEDURES RELATING TO THE VACATION OF PLATS BY CITIES AND COUNTIES, TO PROVIDE FOR CERTAIN NOTICE AND TO REMOVE A CODE REFERENCE; AND AMENDING SECTION 50-1321, IDAHO CODE, TO REVISE CERTAIN NOTICE PROVISIONS AND TO REMOVE A REQUIREMENT FOR CITY CONSENT.

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

SECTION 1. That Section 50-1306A, Idaho Code, be, and the same is hereby amended to read as follows:

50-1306A. VACATION OF PLATS -- PROCEDURE. (1) Any person, persons, firm, association, corporation or other legally recognized form of business desiring to vacate a plat or any part thereof ~~which is inside or within one (1) mile of the boundaries of any city~~ must petition the city council ~~to vacate if it is located within the boundaries of a city, or the county~~

commissioners if it is located within the unincorporated area of the county. Such petition shall set forth particular circumstances of the requests to vacate; contain a legal description of the platted area or property to be vacated; the names of the persons affected thereby, and said petition shall be filed with the city clerk.

(2) Written notice of public hearing on said petition shall be given, by certified mail with return receipt, at least ten (10) days prior to the date of public hearing to all property owners within three hundred (300) feet of the boundaries of the area described in the petition. Such notice of public hearing shall also be published once a week for two (2) successive weeks in the official newspaper of the city, the last of which shall be not less than seven (7) days prior to the date of said hearing; provided, however, that in a proceeding as to the vacation of all or a portion of a cemetery plat where there has been no interment, or in the case of a cemetery being within three hundred (300) feet of another plat for which a vacation is sought, publication of the notice of hearing shall be the only required notice as to the property owners in the cemetery.

(3) When the procedures set forth herein have been fulfilled, the city council may grant the request to vacate with such restrictions as they deem necessary in the public interest.

~~(4) When the platted area lies more than one (1) mile beyond the city limits, the procedures set forth herein shall be followed with the county commissioners of the county wherein the property lies. The county commissioners shall have authority, comparable to the city council, to grant the vacation, provided, however, when the platted area lies beyond one (1) mile of the city limits, but adjacent to a platted area within one (1) mile of the city, consent of the city council of the affected city shall be necessary in granting any vacation by the county commissioners.~~ If a petition to vacate is brought before county commissioners, and the plat or part thereof which is the subject of the petition is located within one (1) mile of the boundaries of any city, the county commissioners shall cause written notice of the public hearing on the petition to be given to the mayor or chief administrative officer of the city by regular mail at least thirty (30) days prior to the date of public hearing.

(5) In the case of easements granted for gas, sewer, water, telephone, cable television, power, drainage, and slope purposes, public notice of intent to vacate is not required. Vacation of these easements shall occur upon the recording of the new or amended plat, provided that all affected easement holders have been notified by certified mail, return receipt requested, of the proposed vacation and have agreed to the same in writing.

(6) When public streets or public rights-of-way are located within the boundary of a highway district, the highway district commissioners shall assume the authority to vacate said public streets and public rights-of-way as ~~provided in subsection (4) of this section.~~

(7) All publication costs shall be at the expense of the petitioner.

(8) Public highway agencies acquiring real property within a platted subdivision for highway right-of-way purposes shall be exempt from the provisions of this section.

(9) Land exclusive of public right-of-way that has been subdivided and platted in accordance with this chapter need not be vacated in order to be replatted.

SECTION 2. That Section 50-1321, Idaho Code, be, and the same is hereby amended to read as follows:

50-1321. NECESSITY FOR CONSENT OF ADJOINING OWNERS -- ACKNOWLEDGMENT AND FILING OF CONSENT -- LIMITATION ON RULE -- PREREQUISITES TO ORDER OF VACATION. No vacation of a public street, public right of way or any part thereof having been duly accepted and recorded as part of a plat or subdi-

vided tract shall take place unless the consent of the adjoining owners be obtained in writing and delivered to the public highway agency having jurisdiction over said public street or public right of way. Such public street or public right of way may, nevertheless, be vacated without such consent of the owners of the property abutting upon such public street or public right of way when such public street or public right of way has not been opened or used by the public for a period of five (5) years and when such nonconsenting owner or owners have access to his, her or their property from some other public street, public right of way or private road. However, before such order of vacation can be entered it must appear to the satisfaction of the public highway agency that the owner or owners of the property abutting said public street or public right of way have been served with notice of the proposed abandonment in the same manner and for the same time as is now or may hereafter be provided for the service of the summons in an action at law. Any vacation of lands within one (1) mile of a city shall require written notification and consent of to the city by regular mail at least thirty (30) days prior to the vacation.

Approved February 24, 2014

CHAPTER 22
(S.B. No. 1214)

AN ACT

RELATING TO PROCEEDINGS IN MAGISTRATE'S DIVISION; AMENDING SECTION 19-3915, IDAHO CODE, TO REMOVE ARCHAIC LANGUAGE.

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

SECTION 1. That Section 19-3915, Idaho Code, be, and the same is hereby amended to read as follows:

19-3915. COURT TO DECIDE QUESTIONS OF LAW. The court must decide all questions of law which may arise in the course of the trial, ~~but can give no charge to the jury.~~

Approved February 26, 2014

CHAPTER 23
(S.B. No. 1215)

AN ACT

RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1622, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES.

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

SECTION 1. That Section 16-1622, Idaho Code, be, and the same is hereby amended to read as follows:

16-1622. REVIEW HEARINGS -- ANNUAL PERMANENCY HEARINGS. (1) Review hearing.

(a) A hearing for review of the child's case and permanency plan shall be held no later than six (6) months after entry of the court's order taking jurisdiction under this act and every six (6) months thereafter. The purpose of the review hearing is to determine:

(i) The safety of the child;

- (ii) The continuing necessity for and appropriateness of the placement;
- (iii) The extent of compliance with the case plan;
- (iv) The extent of progress that has been made toward alleviating or mitigating the causes necessitating placement in foster care; and
- (v) When reasonable, to project a likely date by which the child may be safely returned to and maintained in the home or placed in another permanent placement.

(b) A motion for revocation or modification of an order issued under section 16-1619, Idaho Code, may be filed by the department or any party; provided that no motion may be filed by the respondents under this section within three (3) months of a prior hearing on care and placement of the child. Notice of a motion for review of a child's case shall be provided to the parents and other legal guardians, the prosecuting attorney or deputy attorney general, guardian ad litem, attorney for the child, the department and foster parents.

(c) If the motion filed under paragraph (b) of this subsection alleges that the child's best interests are no longer served by carrying out the order issued under section 16-1619, Idaho Code, or that the department or other authorized agency has failed to provide adequate care for the child, the court shall hold a hearing on the motion.

(d) The department or authorized agency may move the court at any time to vacate any order placing a child in its custody or under its protective supervision.

(2) Permanency plan and hearing.

(a) The permanency plan shall include a permanency goal. The permanency goal may be one (1) of the following: continued efforts at reunification, in the absence of a judicial determination of aggravated circumstances; or termination of parental rights and adoption, guardianship or another planned permanent living arrangement. Every permanency plan shall include the information set forth in section 16-1621(3)(a), Idaho Code. If the permanency plan has reunification as a permanency goal, the plan shall include information set forth in section 16-1621(3)(~~bc~~), Idaho Code. If the permanency plan has a permanency goal other than reunification, the plan shall include the information set forth in section 16-1621(3)(~~ed~~), Idaho Code. The court may approve a permanency plan which includes a primary goal and a concurrent goal.

(b) A permanency hearing shall be held no later than twelve (12) months from the date the child is removed from the home or the date of the court's order taking jurisdiction under this chapter, whichever occurs first, and at least every twelve (12) months thereafter, so long as the court has jurisdiction over the child. The court shall approve, reject or modify the permanency plan of the department and review progress in accomplishing the permanency goal. A permanency hearing may be held at any time and may be combined with the review hearing required under subsection (1) of this section.

(c) The court shall make written case-specific findings whether the department made reasonable efforts to finalize the primary permanency goal in effect for the child. Lack of reasonable efforts to reunify may be a basis for an order approving a permanency plan with a permanency goal of reunification.

(d) Where the permanency goal is not reunification, the hearing shall include a review of the department's consideration of options for in-state and out-of-state placement of the child. In the case of a child in an out-of-state placement, the court shall determine whether the out-of-state placement continues to be appropriate and in the best interest of the child.

(e) In the case of a child who has attained the age of sixteen (16) years, the hearing shall include a determination of the services needed to assist the child to make the transition from foster care to independent living.

(f) The court may approve a primary permanency goal of another planned permanent living arrangement only upon written, case-specific findings that there are compelling reasons why a more permanent goal is not in the best interests of the child.

(g) If the child has been in the temporary or legal custody of the department for fifteen (15) of the most recent twenty-two (22) months, the department shall file, prior to the last day of the fifteenth month, a petition to terminate parental rights, unless the court finds that:

(i) The child is placed permanently with a relative;

(ii) There are compelling reasons why termination of parental rights is not in the best interests of the child; or

(iii) The department has failed to provide reasonable efforts to reunify the child with his family.

(h) The court may authorize the department to suspend further efforts to reunify the child with the child's parent, pending further order of the court, when a permanency plan is approved by the court and the permanency plan does not include a permanency goal of reunification.

Approved February 26, 2014

CHAPTER 24
(S.B. No. 1297)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF SPECIES CONSERVATION FOR FISCAL YEAR 2014; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2014; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 158, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated to the Office of Species Conservation \$50,000 from the General Fund to be expended for operating expenditures for the period July 1, 2013, through June 30, 2014.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 161, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated from the Fish and Game (Other) Fund to the Department of Fish and Game for the Wildlife Program, the following amounts to be expended for the designated expense classes, for the period July 1, 2013, through June 30, 2014:

FOR:

Personnel Costs	\$35,000
Operating Expenditures	<u>15,000</u>
TOTAL	\$50,000

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

Approved February 26, 2014

CHAPTER 25

(H.B. No. 369, As Amended in the Senate)

AN ACT

RELATING TO INCOME TAXATION; AMENDING SECTION 63-3015, IDAHO CODE, TO REVISE CRITERIA FOR DETERMINING THE RESIDENCY OF AN ESTATE OR TRUST AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 63-3015, Idaho Code, be, and the same is hereby amended to read as follows:

63-3015. QUALIFIED FUNERAL ESTATES AND TRUSTS. (1) An estate is treated as a resident estate if the decedent was a resident of Idaho on the date of death.

(2) A trust, other than a qualified funeral trust, is treated as a resident trust if three (3) or more of the following conditions existed for the entire taxable year:

(a) The domicile or residency of the grantor is in Idaho;

(b) The trust is governed by Idaho law;

(c) The trust has real or tangible personal property located in Idaho;

(d) The domicile or residency of the trustee is in Idaho;

(e) The administration of the trust takes place in Idaho. Administration of the trust includes conducting trust business, investing trust assets, making administrative decisions, recordkeeping and preparation and filing of tax returns.

(3) A trust, other than a qualified funeral trust, is treated as a part-year resident trust each day of the taxable year during which three (3) or more of the conditions specified in subsection (2) of this section existed.

(4) A resident of this state includes a trust whose qualified funeral trust is treated as a resident trust if its trustee has elected treatment as a qualified funeral trust pursuant to section 685 of the Internal Revenue Code where, at the time of the initial funding of the trust, the trust is required to be established under the laws of this state, or, in the absence of such a requirement, where a funeral home or cemetery located in this state is identified to provide the services or merchandise, or both, under the terms of a preneed contract requiring the establishment of the trust.

(25) Qualified funeral trusts having a single trustee may file a single, composite return pursuant to rules of the state tax commission. Each beneficiary's interest in a qualified funeral trust included in the composite return under this section shall be taxed as a separate trust for the purposes of application of the rate schedules in section 63-3024, Idaho Code, and determination of the filing requirement in section 63-3030, Idaho Code. The composite return shall not be a return of a person under section 63-3082, Idaho Code.

(6) If the estate does not qualify as a resident estate, it is treated as a nonresident estate.

(7) If the trust does not qualify as a resident or part-year resident trust, it is treated as a nonresident trust.

(8) For purposes of determining residency status of a trust, no distinction is made between inter vivos trusts and testamentary trusts or between revocable trusts and irrevocable trusts.

Approved February 28, 2014

CHAPTER 26
(S.B. No. 1204)

AN ACT

RELATING TO RIGHTS AND PRIVILEGES OF VETERANS AND THE STATE EMPLOYEE PERSONNEL SYSTEM; AMENDING SECTION 65-504, IDAHO CODE, TO REMOVE A TERM RELATING TO THE DETERMINATION OF VETERANS' PREFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 67-5309, IDAHO CODE, TO REMOVE A TERM RELATING TO THE DETERMINATION OF VETERANS' PREFERENCE.

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

SECTION 1. That Section 65-504, Idaho Code, be, and the same is hereby amended to read as follows:

65-504. BASIC PREFERENCE AND ADDITION OF POINTS TO COMPETITIVE EXAMINATION RATINGS. (1) An applicant who is preference eligible is entitled to a preference in initial appointment with a public employer over other applicants for the same position who are not more qualified.

(2) Application of preference in civil service positions:

(a) Five (5) percentage points shall be added to the earned rating of any veteran and the widow or widower of any veteran as long as he or she remains unmarried. The names of all five (5) point preference eligible applicants shall be placed on the register in accordance with their augmented rating. The additional points added by reason of veteran's veterans' preference shall be used only for the purpose of initial appointment and not for the purpose of any promotion, transfer or reassignment.

(b) Ten (10) percentage points shall be added to the earned rating of veterans discharged under honorable conditions who qualify as disabled veterans because they have served on active duty in the armed forces at any time and have a current service-connected disability of ten percent (10%) or more. Alternatively, ten (10) percentage points shall be added to the earned rating of the widow or widower of any disabled veteran as long as he or she remains unmarried or the spouse of any eligible disabled veteran who cannot qualify for any public employment because of a service-connected disability. The names of all ten (10) point preference eligible applicants shall be placed on the register in accordance with their augmented rating. The additional points added by reason of veteran's veterans' preference shall be used only for the purpose of initial appointment and not for the purpose of any promotion, transfer or reassignment.

(c) Veterans discharged under honorable conditions who served on active duty in the armed forces at any time and have a current service-connected disability of thirty percent (30%) or more shall be offered an interview if they are one (1) of the qualified applicants on the register for the position. If applicants are not ranked, an interview must be offered to such veterans who fully meet all qualifications for the position. Notwithstanding this subsection, employers shall not be required to interview more than a total of ten (10) applicants regardless of the number of such qualified veteran applicants.

SECTION 2. That Section 67-5309, Idaho Code, be, and the same is hereby amended to read as follows:

67-5309. RULES OF THE DIVISION OF HUMAN RESOURCES AND THE PERSONNEL COMMISSION. The administrator of the division of human resources shall have

the power and authority to adopt, amend, or rescind such rules as may be necessary for proper administration of this chapter. Such rules shall include:

(a) A rule requiring the administrator, after consulting with each department to develop, adopt, and make effective, a job classification system for positions covered by this chapter, based upon an analysis of the duties and responsibilities of the positions. The job classification shall include an appropriate title for each class, and a description of duties and responsibilities of positions in the classes and the requirements of minimum training, experience and other qualifications, suitable for the performance of duties of the position.

(b) A rule describing the relevant labor markets and benchmark job classifications used in the administrator's salary surveys.

(c) A rule requiring that all classes of positions which are common to the departments concerned shall have the same titles, minimum requirements and compensation ranges.

(d) A rule providing for review by the administrator of the personnel system including classifications and compensation policies and procedures.

(e) A rule that, notwithstanding the procedure for examination and ranking of eligibles on a register provided in subsection (f) of this section, an agency may appoint an individual directly into an entrance or promotional probation if the division of vocational rehabilitation, Idaho commission for the blind and visually impaired or the industrial commission certifies, with the concurrence of division of human resources staff, that the individual (1) has a disability or handicap as defined under state or federal law; (2) is qualified to perform the essential functions of a particular classified position with or without reasonable accommodation; and (3) lacks competitiveness in the examination process due to the disability or handicap. The probationary period as provided in subsection (j) of this section shall be the sole examination for such individuals.

(f) A rule requiring fair and impartial selection of appointees to all positions other than those defined as nonclassified in this chapter, on the basis of open competitive merit examinations or evaluations. An application for an examination will be accepted after the closing date of the examination from a person who was serving in the armed forces, or undergoing service-connected hospitalization up to one (1) year following discharge. The application must be submitted within one hundred twenty (120) days of separation from the armed forces or hospitalization and prior to the expiration of the register established as a result of the examination. A disabled veteran may file an application at any time up until a selection has been made for any position for which the division maintains a register as a source for future job openings or for which a register is about to be established, provided he or she has not already been examined twice for the same position and grade for which application is made, does not have current eligibility on that register, or is not serving in a competitive position in the same grade for which application is made. Examinations may be assembled or unassembled and may include various examining techniques such as rating of training and experience, written tests, oral interviews, recognition of professional licensing, performance tests, investigations and any other measure of ability to perform the duties of the position. Examinations shall be scored objectively. Five (5) percentage points shall be added to the earned rating of any veteran as defined in section 65-502, Idaho Code, and the widow or widower of any veteran as defined in section 65-502, Idaho Code, as long as he or she remains unmarried. Pursuant to section 65-504, Idaho Code, ten (10) percentage points shall be added to the earned rating of any disabled veteran as defined in section 65-502, Idaho Code, the widow or widower of any disabled veteran as long as he or she remains unmarried or the spouse of any eligible disabled veteran who cannot qualify for any public employment because of a service-connected disability. Employment registers shall be established in order of final score except that the names of all

five (5) and ten (10) percentage point preference eligibles resulting from any merit system or civil service examination shall be placed on the register in accordance with their augmented rating. Certification of eligibility for appointment to vacancies shall be in accordance with a formula which limits selection by the hiring department from among the twenty-five (25) top ranking available eligibles plus the names of all individuals with scores identical to the twenty-fifth ranking eligible on the register. A register with at least five (5) eligibles shall be adequate. Selective certification shall be permitted when justified by the hiring department, under rules to be made by the division defining adequate justification based on the duties and requirements of the positions. Such examinations need not be held until after the rules have been adopted, the service classified and a pay plan established, but shall be held not later than one (1) year after departments commence participation in the personnel system.

(g) A rule that, whenever practicable, a vacancy in a classified position shall be filled by the promotion of a qualified employee of the agency in which the vacancy occurs. An interagency promotion shall be made through competitive examination and all qualified state employees shall have the opportunity to compete for such promotions. If an employee's name appears within certifiable range on a current register for a higher class of position, he shall be eligible for a transfer and promotion.

(h) A rule for development and maintenance of a system of service ratings and the use of such ratings by all departments in connection with promotions, demotions, retentions, separations and reassignments. The rule shall require that an evaluation of each classified employee shall be made after each two thousand eighty (2,080) hour period of credited state service, and that a copy of the evaluation shall be filed with the division.

(i) A rule prohibiting disqualification of any person from taking an examination, from appointment to a position, from promotion, or from holding a position because of race or national origin, color, sex, age, political or religious opinions or affiliations, and providing for right of appeal.

(j) A rule establishing a probation period not to exceed one thousand forty (1,040) hours of credited state service for all appointments and promotions, except that peace officers as defined in section 19-5101, Idaho Code, shall be subject to a probation period of two thousand eighty (2,080) hours of credited state service, and for the appointing authority to provide the employee and the administrator a performance evaluation indicating satisfactory or unsatisfactory performance not later than thirty (30) days after the expiration of the probationary period. The rule shall provide that if the appointing authority fails to provide a performance evaluation within thirty (30) days after the expiration of the probationary period, the employee shall be deemed to have satisfactorily completed the probation unless the appointing authority receives approval from the administrator to extend the probationary period for good cause for an additional specified period not to exceed one thousand forty (1,040) hours of credited state service. If an employee is performing in an unsatisfactory manner during the entrance probationary period, the appointing authority shall ask the employee to resign, and if no resignation is submitted, shall terminate the employment of such employee without the right of grievance or appeal.

(k) A rule concerning provisional appointments.

(l) A rule concerning temporary appointments.

(m) A rule governing the employment of consultants and persons retained under independent contract.

(n) A rule for the disciplinary dismissal, demotion, suspension or other discipline of employees only for cause with reasons given in writing. Such rule shall provide that any of the following reasons shall be proper cause for the disciplinary dismissal, demotion or suspension of any employee in the state classified service:

1. Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes and rules of the employee's department, or rules of the administrator or the division.
2. Inefficiency, incompetency, or negligence in the performance of duties, or job performance that fails to meet established performance standards.
3. Physical or mental incapability for performing assigned duties.
4. Refusal to accept a reasonable and proper assignment from an authorized supervisor.
5. Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the employee's department.
6. Intoxication on duty.
7. Careless, negligent, or improper use or unlawful conversion of state property, equipment or funds.
8. Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage.
9. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude.
10. Acceptance of gifts in exchange for influence or favors given in the employee's official capacity.
11. Habitual pattern of failure to report for duty at the assigned place and time.
12. Habitual improper use of sick leave privileges.
13. Unauthorized disclosure of confidential information from official records.
14. Absence without leave.
15. Misstatement or deception in the application for the position.
16. Failure to obtain or maintain a current license or certificate lawfully required as a condition for performing the duties of the job.
17. Prohibited participation in political activities.

(o) A rule to establish procedures for maintenance of a record of the employment history and appropriate information relating to performance of all employees under the personnel system. For the purposes of this rule, the state shall be considered one (1) employer.

(p) Rules to provide for recruitment programs in cooperation with department heads and the employment security agency in keeping with current employment conditions and labor market trends.

(q) Rules to establish procedures for examinations as necessary for the purpose of maintaining current registers from which to fill employment vacancies.

(r) Other rules not inconsistent with the foregoing provisions of this section as may be necessary and proper for the administration and enforcement of this chapter.

(s) A rule concerning "project exempt" appointments.

(t) Rules relating to leave for state employees from official duties including, but not limited to, sick leave, military leave, jury duty, leaves of absence without compensation and such other forms of absence from performance of duties in the course of state employment as may be necessary.

(u) A rule providing up to twenty-five percent (25%) shift differential pay based on local market practices.

(v) A rule to establish guidelines for awarding employee suggestion awards set forth in sections 59-1603 and 67-5309D, Idaho Code.

(w) A rule to establish the reimbursement of moving expenses for a current or newly-hired state employee.

(x) A rule to allow, at the request of the hiring agency, temporary service time to count toward fulfilling entrance probationary requirements as established in subsection (j) of this section.

(y) A rule to allow, at the request of the hiring agency, acting appointment service time to count toward fulfilling promotional probationary requirements as established in subsection (j) of this section.

Approved February 28, 2014

CHAPTER 27
(S.B. No. 1229)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-5102, IDAHO CODE, TO PROVIDE AND REVISE DEFINITIONS; AMENDING SECTION 33-5103, IDAHO CODE, TO PROVIDE THAT A SECONDARY PUPIL ENROLLED IN A PUBLIC SCHOOL MAY APPLY TO AN INSTITUTION TO ENROLL IN CERTAIN COURSES; AMENDING SECTION 33-5104, IDAHO CODE, TO REVISE PROVISIONS RELATING TO COUNSELING SERVICES; AMENDING SECTION 33-5105, IDAHO CODE, TO REVISE PROVISIONS RELATING TO INFORMATION PROVIDED TO SECONDARY PUPILS; AMENDING SECTION 33-5106, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PUPIL PARTICIPATION; AMENDING SECTION 33-5107, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A POSTSECONDARY INSTITUTION'S ENROLLMENT PRIORITY; AND REPEALING SECTION 33-5108, IDAHO CODE, RELATING TO COURSES ACCORDING TO AGREEMENTS.

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

SECTION 1. That Section 33-5102, Idaho Code, be, and the same is hereby amended to read as follows:

33-5102. DEFINITIONS. As used in this chapter:

- (1) "Course" means a course of instruction or a program of instruction.
- (2) "Dual credit" means credit awarded to a student on his or her secondary and postsecondary transcript for the completion of a single course.
- (3) "Eligible institution" means an Idaho public postsecondary institution; a private two-year trade and technical school accredited by a reputable accrediting association; or a private, residential, two-year or four-year liberal arts, degree-granting college or university located in Idaho a public or private postsecondary educational institution accredited by an organization recognized by the state board of education.
- (4) "Postsecondary credit" means credit awarded to a student on his or her postsecondary transcript for the completion of a course.
- (5) "Secondary credit" means credit awarded to a student on his or her secondary transcript for the completion of a course.

SECTION 2. That Section 33-5103, Idaho Code, be, and the same is hereby amended to read as follows:

33-5103. AUTHORIZATION -- NOTIFICATION. Notwithstanding any other law, administrative rule or local policy to the contrary, ~~an eleventh or twelfth grade~~ a secondary pupil enrolled in a public school, except a foreign exchange pupil enrolled in a district under a cultural exchange program, may apply to an eligible institution to enroll in nonsectarian courses offered by that postsecondary institution. If an institution accepts a secondary pupil for enrollment under the provisions of this chapter, the institution shall send written notice to the pupil and the pupil's school district within ten (10) days of acceptance. The notice shall indicate the course and hours of enrollment of that pupil. If the pupil enrolls in a course for postsecondary credit, the institution shall notify the pupil about payment in the customary manner used by the institution.

SECTION 3. That Section 33-5104, Idaho Code, be, and the same is hereby amended to read as follows:

33-5104. COUNSELING. (1) To the extent possible, the school district shall provide counseling services to pupils and their parents or guardians before the pupil enrolls in courses under the provisions of this chapter to ensure that the pupil and parents or guardian are fully aware of the risks and possible consequences of enrolling in postsecondary courses. ~~The district~~ Counseling services shall ~~provide~~ include information on the program including who may enroll, what institutions and sources are available under this program, the decision-making process for granting academic credits, financial arrangements for tuition, books and materials, eligibility criteria for transportation aid, available support services, the need to arrange an appropriate schedule, consequences of failing or not completing a course in which the pupil enrolls, the effect of enrolling in this program on the pupil's ability to complete the required high school graduation requirements, financial aid and the academic and social responsibilities that must be assumed by the pupil and the parents or guardian. The person providing counseling shall encourage pupils and their parents or guardian to also use available counseling services at the postsecondary institutions prior to the semester of enrollment to ensure that anticipated plans are appropriate and adequate.

~~(2) Prior to enrolling, the pupil and the pupil's parents or guardian must sign a form that shall be provided by the school district and may be obtained from a postsecondary institution stating that they have received the information specified herein and that they understand the responsibilities that must be assumed in enrolling in this program. The superintendent of public instruction shall, upon request, provide technical assistance to a school district in developing appropriate forms and counseling guidelines.~~

SECTION 4. That Section 33-5105, Idaho Code, be, and the same is hereby amended to read as follows:

33-5105. DISSEMINATION OF INFORMATION -- NOTIFICATION OF INTENT TO ENROLL. By March 1 of each year, a school district shall provide general information about the program to all secondary pupils in ~~grades ten (10) and eleven (11)~~. To assist the district in planning, a pupil shall inform the district by March 30 of each year of the pupil's intent to enroll in postsecondary courses during the following school year. A pupil is not bound by notifying or not notifying the district by March 30.

SECTION 5. That Section 33-5106, Idaho Code, be, and the same is hereby amended to read as follows:

33-5106. LIMIT ON PARTICIPATION. (1) ~~A pupil who first enrolls in grade eleven (11) may not enroll in postsecondary courses under the provisions of this chapter for secondary credit for more than the equivalent of two (2) academic years.~~

~~(2) A pupil who first enrolls in grade twelve (12) may not enroll in postsecondary courses under the provisions of this chapter for secondary credit for more than the equivalent of one (1) academic year.~~

~~(3) A pupil may also be enrolled in courses for secondary credits approved by the local school district. If a pupil's enrollment pursuant to this chapter decreases the pupil's instructional time in the local school district to less than four (4) hours a day, the pupil shall nevertheless be counted as in local school district instructional time for four (4) hours a day for purposes of chapter 10, title 33, Idaho Code.~~

~~(4) A pupil who has completed course requirements for graduation but who has not received a diploma may participate in the program.~~

(53) A pupil who has graduated from high school cannot participate in the program.

SECTION 6. That Section 33-5107, Idaho Code, be, and the same is hereby amended to read as follows:

33-5107. ENROLLMENT PRIORITY. A postsecondary institution shall give priority to its postsecondary students when enrolling ~~eleventh and twelfth grade pupils~~ secondary students in courses for secondary credit only. Once a pupil has been enrolled in a postsecondary course under the provisions of this chapter, the pupil shall not be displaced by another student.

SECTION 7. That Section 33-5108, Idaho Code, be, and the same is hereby repealed.

Approved February 28, 2014

CHAPTER 28
(S.B. No. 1241)

AN ACT

RELATING TO TRESPASS; AMENDING SECTION 18-7008, IDAHO CODE, TO REVISE TRESPASS POSTING PROVISIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-7011, IDAHO CODE, TO REVISE TRESPASS POSTING PROVISIONS; AND AMENDING SECTION 36-1603, IDAHO CODE, TO REVISE TRESPASS POSTING PROVISIONS.

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

SECTION 1. That Section 18-7008, Idaho Code, be, and the same is hereby amended to read as follows:

18-7008. TRESPASS -- ACTS CONSTITUTING. A. Every person who willfully commits any trespass, by either:

1. Cutting down, destroying or injuring any kind of wood or timber belonging to another, standing or growing upon the lands of another; or
2. Carrying away any kind of wood or timber lying on such lands; or
3. Maliciously injuring or severing from the freehold of another, anything attached thereto, or the produce thereof; or
4. Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner or legal occupant thereof, any earth, soil or stone; or
5. Digging, taking, or carrying away from any land in any of the cities of the state, laid down on the map or plan of such city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil or stone; or
6. Willfully opening, tearing down, or otherwise destroying any fence on the enclosed land of another, or opening any gate, bar, or fence of another and willfully leaving it open, or using the corral or corrals of another without the permission of the owner; or
7. Willfully covering up or encumbering in any manner, the land or city lot of another, without written permission from the owner or custodian thereof; or
8. Every person, except under landlord-tenant relationship, who, being first notified in writing, or verbally by the owner or authorized agent of the owner of real property, to immediately depart from the same and who refuses to so depart, or who, without permission or invitation, re-

turns and enters said property within a year, after being so notified;
or

9. Entering without permission of the owner or the owner's agent, upon the real property of another person which ~~real property~~:

(a) ~~Is~~ posted with "No Trespassing" signs~~;~~;

(b) ~~Is~~ posted with a minimum of one hundred (100) square inches of fluorescent orange, bright orange, blaze orange, safety orange or any similar high visibility shade of orange colored paint except that when metal fence posts are used, a minimum of eighteen (18) inches of the top of the post must be painted a high visibility shade of orange~~;~~ or;

(c) ~~Is~~ posted with other notices of like meaning, spaced at intervals of not less than one (1) sign, paint area or notice per six hundred sixty (660) feet along such real property; provided that where the geographical configuration of the real property is such that entry can reasonably be made only at certain points of access, such property is posted sufficiently for all purposes of this section if said signs, paint or notices are posted at such points of access; or

(d) Is posted with a conspicuous sign where a public road enters the real property, through which or along which road the public has a right-of-way, stating words substantially similar to "PRIVATE PROPERTY, NO TRESPASSING OFF (fill in relevant compass direction(s)) SIDE OF ROAD NEXT (fill in the distance) MILES," and which is posted with a conspicuous sign where the public road exits the real property stating words substantially similar to "LEAVING PRIVATE PROPERTY." The postings shall be placed on the private real property. In lieu of posting the compass direction(s), a map depicting the area of private property may be displayed on the sign; or

10. Entering the property of another and, being unprovoked, intentionally and without the consent of the animal's owner, kills or injures a domestic animal not his own:

Is guilty of a misdemeanor.

B. Every person who while committing any trespass, intentionally and without consent of the animal's owner kills or injures a domestic animal of another, not including upland game birds or birds of any species not protected by law, shall be guilty of a misdemeanor. In addition to any other sentence of jail or a criminal fine imposed, a court may, for violation of this subsection or subsection A.10. of this section, impose a civil penalty in an amount up to double the value of the animal or for injuries sustained and payable to the owner of the animal.

SECTION 2. That Section 18-7011, Idaho Code, be, and the same is hereby amended to read as follows:

18-7011. CRIMINAL TRESPASS -- DEFINITION AND PUNISHMENT. (1) Any person who, without consent of the owner or person in charge of any lands which are inclosed by fences of any description sufficient to show the boundaries of the land inclosed, shall go upon such lands and shall leave open any gates on or about said premises, or who shall tear down or lay down any fencing, or who shall willfully remove, mutilate, damage or destroy any "No Trespassing" signs or markers, or who shall go through cultivated crops that have not been harvested, or who shall damage any property thereon, or who without permission of the owner or the owner's agent enters the real property of another person where such real property: ~~is posted with "No Trespassing" signs or other notices of like meaning spaced at intervals of not less than one (1) notice per six hundred sixty (660) feet along such real property,~~

- (a) Is posted with "No Trespassing" signs;
(b) Is posted with a minimum of one hundred (100) square inches of fluorescent orange, bright orange, blaze orange, safety orange or any similar high visibility shade of orange colored paint except that when metal fence posts are used, a minimum of eighteen (18) inches of the top of the post must be painted a high visibility shade of orange;
(c) Is posted with other notices of like meaning, spaced at intervals of not less than one (1) sign, paint area or notice per six hundred sixty (660) feet along such real property; provided that where the geographical configuration of the real property is such that entry can reasonably be made only at certain points of access, such property is posted sufficiently for all purposes of this section if said signs, paint or notices are posted at such points of access; or
(d) Is posted with a conspicuous sign where a public road enters the real property, through which or along which road the public has a right-of-way, stating words substantially similar to "PRIVATE PROPERTY, NO TRESPASSING OFF (fill in relevant compass direction(s)) SIDE OF ROAD NEXT (fill in the distance) MILES," and which is posted with a conspicuous sign where the public road exits the real property stating words substantially similar to "LEAVING PRIVATE PROPERTY." The postings shall be placed on the private real property. In lieu of posting the compass direction(s), a map depicting the area of private property may be displayed on the sign;

is guilty of a misdemeanor and on conviction thereof shall be punished by imprisonment in a county jail not exceeding six (6) months or by a fine of not less than twenty-five dollars (\$25.00) and not more than one thousand dollars (\$1,000) or by both such fine and imprisonment. ~~Where the geographical configuration of the real property is such that entry can reasonably be made only at certain points of access, such property is posted sufficiently for all purposes of this section if said signs or notices are posted at such points of access.~~

As used in this subsection and in section 18-7008, Idaho Code: "enters," "entry" and "entering" mean going upon or over real property either in person or by causing any object, substance or force to go upon or over real property.

(2) No motor vehicle shall be willfully or intentionally driven into, upon, over or through any private land actively devoted to cultivated crops without the consent of the owner of the land or the tenant, lessee or agent of the owner of the land actively devoted to cultivated crops. Violation of the provisions of this section shall be a misdemeanor. For the purpose of this subsection, motor vehicle shall be defined as set forth in sections 49-114 and 49-123, Idaho Code. Land actively devoted to cultivated crops shall be defined as land that is used to produce field crops including, but not limited to, grains, feed crops, legumes, fruits and vegetables.

SECTION 3. That Section 36-1603, Idaho Code, be, and the same is hereby amended to read as follows:

36-1603. TRESPASSING ON CULTIVATED LANDS OR IN VIOLATION OF WARNING SIGNS -- POSTING OF PUBLIC LANDS. (a) No person shall enter the real property of another and shoot any weapon or enter such property for the purposes of hunting, retrieving wildlife, fishing or trapping, without the permission of the owner or person in charge of the property, which property is either cultivated or: ~~posted with legible "No Trespassing" signs, is posted with a minimum of one hundred (100) square inches of fluorescent orange, bright orange, blaze orange, safety orange or any similar high visibility shade of orange colored paint except that when metal fence posts are used, a minimum of eighteen (18) inches of the top of the post must be painted a high visibility shade of orange, or other notices of like meaning, placed in a con-~~

~~spicuous manner on or near all boundaries at intervals of not less than one (1) sign, paint area or notice per six hundred sixty (660) feet provided that where the geographical configuration of the real property is such that entry can reasonably be made only at certain points of access, such property is posted sufficiently for all purposes of this subsection if said signs, paint areas or notices are posted at such points of access.~~

(1) Is posted with "No Trespassing" signs;

(2) Is posted with a minimum of one hundred (100) square inches of fluorescent orange, bright orange, blaze orange, safety orange or any similar high visibility shade of orange colored paint except that when metal fence posts are used, a minimum of eighteen (18) inches of the top of the post must be painted a high visibility shade of orange;

(3) Is posted with other notices of like meaning, spaced at intervals of not less than one (1) sign, paint area or notice per six hundred sixty (660) feet along such real property; provided that where the geographical configuration of the real property is such that entry can reasonably be made only at certain points of access, such property is posted sufficiently for all purposes of this section if said signs, paint or notices are posted at such points of access; or

(4) Is posted with a conspicuous sign where a public road enters the real property, through which or along which road the public has a right-of-way, stating words substantially similar to "PRIVATE PROPERTY, NO TRESPASSING OFF (fill in relevant compass direction(s)) SIDE OF ROAD NEXT (fill in the distance) MILES," and which is posted with a conspicuous sign where the public road exits the real property stating words substantially similar to "LEAVING PRIVATE PROPERTY." The postings shall be placed on the private real property. In lieu of posting the compass direction(s), a map depicting the area of private property may be displayed on the sign;

For the purposes of this section, "cultivated" shall mean soil that is being or has been prepared by loosening or breaking up for the raising of crops, or used for the raising of crops, or artificially irrigated pasturage. No person shall fail to depart immediately from the real property of another after being notified in writing or orally by the owner of the real property or the owner's authorized agent.

(b) No person shall post, sign, or indicate that any public lands within this state, not held under an exclusive control lease, are privately owned lands.

Approved February 28, 2014

CHAPTER 29
(S.B. No. 1264)

AN ACT

RELATING TO THE PUBLIC CHARTER SCHOOL COMMISSION; AMENDING SECTION 33-5213, IDAHO CODE, TO PROVIDE THAT IT SHALL BE THE RESPONSIBILITY AND DUTY OF THE DIRECTOR OF THE STATE BOARD OF EDUCATION, OR HIS DESIGNEE, TO ADMINISTER AND ENFORCE CERTAIN PROVISIONS AND TO PROVIDE FOR POLICIES AND RECOMMENDATIONS.

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

SECTION 1. That Section 33-5213, Idaho Code, be, and the same is hereby amended to read as follows:

33-5213. PUBLIC CHARTER SCHOOL COMMISSION. (1) There is hereby created an independent public charter school commission, referred to hereinafter as the commission, to be located in the office of the state board of education, pursuant to section 33-105, Idaho Code. It shall be the responsibility and duty of the executive director of the state board of education, or his designee, acting at the direction of the commission to administer and enforce the provisions of this chapter, and the director or his designee shall serve as secretary to the commission.

(2) The public charter school commission shall adopt rules policies, subject to law, regarding the governance and administration of the commission and make recommendations to the state board of education regarding the oversight of public charter schools.

(3) The commission shall be composed of seven (7) members:

(a) Three (3) members shall be appointed by the governor, subject to the advice and consent of the senate;

(b) Two (2) members shall be appointed by the speaker of the house of representatives; and

(c) Two (2) members shall be appointed by the president pro tempore of the senate.

Commissioner appointments made pursuant to this section prior to July 1, 2013, shall remain valid through the duration of the term to which each commissioner was appointed. To establish a transition to the appointing authority structure contained in this subsection, the first four (4) appointments available on or after July 1, 2013, shall be made in an alternating sequence for each appointment by the speaker of the house of representatives and the president pro tempore of the senate, followed by three (3) appointments by the governor. Subsequent appointments shall be made by the same appointing authority that originally appointed the commissioner whose term expired.

(4) The term of office for commission members shall be four (4) years. In making such appointments, the appointing authorities shall consider regional balance. Members appointed to the commission shall collectively possess strong experience and expertise in public and nonprofit governance, management and finance, public school leadership, assessment, curriculum and instruction and public education law. All members of the commission shall have demonstrated understanding of and commitment to charter schools as a strategy for strengthening public education. No commissioner shall serve more than two (2) consecutive four (4) year terms. Members of the commission shall hold office until the expiration of the term to which the member was appointed and until a successor has been duly appointed, unless sooner removed for cause by the appointing authority. Whenever a vacancy occurs, the appointing authority shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(45) All members of the commission shall be citizens of the United States and residents of the state of Idaho for not less than two (2) years.

(56) The members of the commission shall, at their first regular meeting following the effective date of this act, and every two (2) years thereafter, elect, by a majority vote of the members of the commission, a chairman and a vice-chairman. The chairman shall preside at meetings of the commission, and the vice-chairman shall preside at such meetings in the absence of the chairman. A majority of the members of the commission shall constitute a quorum. The commission shall meet at such times and places as determined to be necessary and convenient, or at the call of the chair.

(67) Each member of the commission not otherwise compensated by public moneys shall be compensated as provided in section 59-509 (h), Idaho Code.

CHAPTER 30
(S.B. No. 1337)

AN ACT

RELATING TO AGRICULTURE; AMENDING CHAPTER 70, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-7042, IDAHO CODE, TO PROVIDE FOR THE CRIME OF INTERFERENCE WITH AGRICULTURAL PRODUCTION, TO DEFINE TERMS, TO PROVIDE FOR VIOLATIONS AND PENALTIES AND TO PROVIDE FOR RESTITUTION; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 70, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-7042, Idaho Code, and to read as follows:

18-7042. INTERFERENCE WITH AGRICULTURAL PRODUCTION. (1) A person commits the crime of interference with agricultural production if the person knowingly:

- (a) Is not employed by an agricultural production facility and enters an agricultural production facility by force, threat, misrepresentation or trespass;
- (b) Obtains records of an agricultural production facility by force, threat, misrepresentation or trespass;
- (c) Obtains employment with an agricultural production facility by force, threat, or misrepresentation with the intent to cause economic or other injury to the facility's operations, livestock, crops, owners, personnel, equipment, buildings, premises, business interests or customers;
- (d) Enters an agricultural production facility that is not open to the public and, without the facility owner's express consent or pursuant to judicial process or statutory authorization, makes audio or video recordings of the conduct of an agricultural production facility's operations; or
- (e) Intentionally causes physical damage or injury to the agricultural production facility's operations, livestock, crops, personnel, equipment, buildings or premises.

(2) For purposes of this section:

- (a) "Agricultural production" means activities associated with the production of agricultural products for food, fiber, fuel and other lawful uses and includes without limitation:
 - (i) Construction, expansion, use, maintenance and repair of an agricultural production facility;
 - (ii) Preparing land for agricultural production;
 - (iii) Handling or applying pesticides, herbicides or other chemicals, compounds or substances labeled for insects, pests, crops, weeds, water or soil;
 - (iv) Planting, irrigating, growing, fertilizing, harvesting or producing agricultural, horticultural, floricultural and viticultural crops, fruits and vegetable products, field grains, seeds, hay, sod and nursery stock, and other plants, plant products, plant byproducts, plant waste and plant compost;
 - (v) Breeding, hatching, raising, producing, feeding and keeping livestock, dairy animals, swine, furbearing animals, poultry, eggs, fish and other aquatic species, and other animals, animal products and animal byproducts, animal waste, animal compost, and bees, bee products and bee byproducts;

(vi) Processing and packaging agricultural products, including the processing and packaging of agricultural products into food and other agricultural commodities;

(vii) Manufacturing animal feed.

(b) "Agricultural production facility" means any structure or land, whether privately or publicly owned, leased or operated, that is being used for agricultural production.

(3) A person found guilty of committing the crime of interference with agricultural production shall be guilty of a misdemeanor and shall be punished by a term of imprisonment of not more than one (1) year or by a fine not in excess of five thousand dollars (\$5,000), or by both such fine and imprisonment.

(4) In addition to any other penalty imposed for a violation of this section, the court shall require any person convicted, found guilty or who pleads guilty to a violation of this section to make restitution to the victim of the offense in accordance with the terms of section 19-5304, Idaho Code. Provided however, that such award shall be in an amount equal to twice the value of the damage resulting from the violation of this section.

SECTION 2. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

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

Approved February 28, 2014

CHAPTER 31
(H.B. No. 378)

AN ACT

RELATING TO IDAHO DAY; PROVIDING LEGISLATIVE INTENT; AND AMENDING CHAPTER 1, TITLE 73, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 73-108C, IDAHO CODE, TO PROVIDE FOR AN ANNUAL IDAHO DAY.

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

SECTION 1. LEGISLATIVE INTENT. President Abraham Lincoln, having signed the congressional act creating the Idaho Territory on March 4, 1863, it is the intent of the Legislature to recognize March 4 as IDAHO DAY, through which the people of Idaho may yearly celebrate the rich history, cultural diversity, unique beauty and boundless resources of the State of Idaho and thereby gain a renewed sense of courage and confidence for the future. Throughout its one hundred fifty year history, Idaho has been the birthplace and home of remarkable men and women who have distinguished themselves nationally and internationally in the fields of law, literature, music, the arts, athletics, philanthropy, politics and even space exploration. The same combination of adventure, ambition, industry, innovation and enterprise that led to Idaho's founding has created a cradle for entrepreneurs, innovators and visionaries. Their work has had a global reach and helped create the Panama Canal, Hoover Dam, the Chunnel, potato chips and computer memory chips, the supermarket, the engineering of wood products, farm machinery and locomotives, the laser printer and enough patents to

rank Idaho among the nation's most prominent intellectual incubators. It is the purpose of this act to provide the mechanism through which state and local agencies of government, historical societies, schools, colleges and universities, Indian tribes, service organizations, clubs, the media and Idaho citizens in general can educate others about Idaho, her culture, her resources, her history and her greatness.

SECTION 2. That Chapter 1, Title 73, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 73-108C, Idaho Code, and to read as follows:

73-108C. IDAHO DAY. March 4 shall be designated as Idaho day. If March 4 falls on a Sunday, the following Monday, March 5, shall be Idaho day; and if March 4 falls on a Saturday, the preceding Friday, March 3, shall be Idaho day. The governor of the state of Idaho shall issue a proclamation each year marking Idaho day. The president pro tempore of the senate and the speaker of the house of representatives shall conduct appropriate ceremonies and programs on Idaho day to honor Idaho's heritage. The Idaho state historical society shall conduct appropriate activities and be encouraged to create exhibitions to commemorate Idaho day. The people of Idaho shall be encouraged to display the Idaho and United States flags on Idaho day. Idaho day shall not constitute a reason to close state and political subdivision offices.

Approved March 4, 2014

CHAPTER 32
(H.B. No. 348)

AN ACT

RELATING TO UNIFORM CONTROLLED SUBSTANCES; AMENDING SECTION 37-2726, IDAHO CODE, TO PROVIDE THAT A RECIPIENT OF A DISPENSED CONTROLLED SUBSTANCE OR THE RECIPIENT'S DESIGNEE SHALL HAVE ACCESS TO CERTAIN PRESCRIPTION MONITORING PROGRAM DATA UPON PRODUCTION OF CERTAIN INFORMATION.

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

SECTION 1. That Section 37-2726, Idaho Code, be, and the same is hereby amended to read as follows:

37-2726. FILING PRESCRIPTIONS -- DATABASE. (1) All controlled substances dispensed for humans shall be filed with the board electronically in a format established by the board or by other method as required by board rule. The board may require the filing of other prescriptions by board rule. The board shall establish by rule the information to be submitted pursuant to the purposes of this section and the purposes set forth in section 37-2730A, Idaho Code.

(2) The board shall create, operate and maintain a controlled substances prescriptions database containing the information submitted pursuant to subsection (1) of this section, to be used for the purposes and subject to the terms, conditions and immunities described in section 37-2730A, Idaho Code. The database information must be made available only to the following:

- (a) Authorized individuals employed by Idaho's boards or other states' licensing entities charged with the licensing and discipline of practitioners;
- (b) Peace officers employed by federal, state and local law enforcement agencies engaged as a specified duty of their employment in enforcing law regulating controlled substances;

(c) Authorized individuals under the direction of the department of health and welfare for the purpose of monitoring and enforcing that department's responsibilities under the public health, medicare and medicaid laws;

(d) A practitioner, licensed in Idaho or another state, having authority to prescribe controlled substances, to the extent the information relates specifically to a current patient of the practitioner to whom the practitioner is prescribing or considering prescribing any controlled substance;

(e) A pharmacist, licensed in Idaho or another state, having authority to dispense controlled substances to the extent the information relates specifically to a current patient to whom that pharmacist is dispensing or considering dispensing any controlled substance, or providing pharmaceutical care as defined in the Idaho pharmacy act;

(f) An individual who is the recipient of a dispensed controlled substance prescription entered into the database or that individual's attorney may access records that pertain to that individual, upon providing evidence satisfactory to the board that the individual requesting the information is in fact the person about whom the data entry was made or the attorney for that person the production of positive identification, or that individual's designee upon production of a notarized release of information by that individual;

(g) Upon the lawful order of a court of competent jurisdiction; and

(h) Prosecuting attorneys, deputy prosecuting attorneys and special prosecutors of a county or city and special assistant attorneys general from the office of the attorney general engaged in enforcing law regulating controlled substances.

(3) The board must maintain records on the information disclosed from the database, including:

(a) The identification of each individual who requests or receives information from the database and who that individual represents;

(b) The information provided to each such individual; and

(c) The date and time the information is requested or provided.

(4) The board shall promulgate rules to ensure that only authorized individuals have access to the database.

(5) Any person who knowingly misrepresents to the board that he is a person entitled under subsection (2) of this section to receive information from the controlled substances prescriptions database under the conditions therein provided, and who receives information from the controlled substances prescriptions database resulting from that misrepresentation, shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six (6) months, or by a fine not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal penalty is in addition to, and not in lieu of, any other civil or administrative penalty or sanction authorized by law.

(6) Any person in possession, whether lawfully or unlawfully, of information from the controlled substances prescriptions database which identifies an individual patient and who knowingly discloses such information to a person not authorized to receive or use such information under any state or federal law, rule or regulation; the lawful order of a court of competent jurisdiction; or written authorization of the individual patient shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six (6) months, or by a fine not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal penalty is in addition to, and not in lieu of, any other civil or administrative penalty or sanction authorized by law. The provisions of this subsection shall not apply to disclosure of individual patient information by the patient himself. The provisions of this subsection shall not apply to disclosure of information by a prosecuting attorney, deputy prosecuting attorney or special prosecutor of a county

or city or by a special assistant attorney general from the office of the attorney general in the course of a criminal proceeding, whether preconviction or postconviction.

(7) Any person with access to the board's online prescription monitoring program pursuant to a board issued user account, login name and password who intentionally shares or recklessly fails to safeguard his user account, login name and password, resulting in another person not authorized to receive or use such information under the provisions of any state or federal law, rule or regulation obtaining information from the controlled substances prescriptions database, shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six (6) months or by a fine not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal penalty is in addition to, and not in lieu of, any other civil or administrative penalty or sanction authorized by law.

(8) The board may, at its discretion, block access to certain controlled substances prescriptions database data if the board has reason to believe that access to the data is or may be used illegally.

(9) All costs associated with recording and submitting data as required in this section are assumed by the dispensing practitioner recording and submitting the data.

Approved March 6, 2014

CHAPTER 33
(H.B. No. 349)

AN ACT

RELATING TO UNIFORM CONTROLLED SUBSTANCES; AMENDING SECTION 37-2709, IDAHO CODE, TO REVISE THE LIST OF SCHEDULE III UNIFORM CONTROLLED SUBSTANCES; AND AMENDING SECTION 37-2711, IDAHO CODE, TO REVISE THE LIST OF SCHEDULE IV UNIFORM CONTROLLED SUBSTANCES.

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

SECTION 1. That Section 37-2709, Idaho Code, be, and the same is hereby amended to read as follows:

37-2709. SCHEDULE III. (a) Schedule III shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, (whether optical or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in schedule II which compounds, mixtures, or preparations were listed as excepted compounds under 21 CFR 1308.32, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances.
- (2) Benzphetamine;
- (3) Chlorphentermine;
- (4) Clortermine;
- (5) Phendimetrazine.

(c) Depressants. Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Any compound, mixture or preparation containing:
 - i. Amobarbital;
 - ii. Secobarbital;
 - iii. Pentobarbital or any salt thereof and one (1) or more other active medicinal ingredients which are not listed in any schedule.
- (2) Any suppository dosage form containing:
 - i. Amobarbital;
 - ii. Secobarbital;
 - iii. Pentobarbital or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.
- (3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof, including, but not limited to:
 - i. Aprobarbital;
 - ii. Butobarbital (secbutobarbital);
 - iii. Butalbital;
 - iv. Butobarbital (butethal);
 - v. Talbutal;
 - vi. Thiamylal;
 - vii. Thiopental;
 - viii. Vinbarbital.
- (4) Chlorhexadol;
- (5) Embutramide;
- (6) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal food, drug, and cosmetic act;
- (7) Ketamine, its salts, isomers, and salts of isomers-7285. (Some other names for ketamine: (+/-)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone).
- (8) Lysergic acid;
- (9) Lysergic acid amide;
- (10) Methyprylon;
- (11) Sulfondiethylmethane;
- (12) Sulfonethylmethane;
- (13) Sulfonmethane;
- (14) Tiletamine and zolazepam or any salt thereof.
- (d) Nalorphine.
- (e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule:
 - (1) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:
 - (i) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
 - (ii) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
 - (iii) Not more than 300 milligrams of dihydrocodeinone, commonly known as hydrocodone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;
 - (iv) Not more than 300 milligrams of dihydrocodeinone, commonly known as hydrocodone, or any of its salts, per 100 milliliters

or not more than 15 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(v) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(vi) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one (1) or more ingredients in recognized therapeutic amounts;

(vii) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(viii) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(2) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts, as set forth below:

(i) Buprenorphine.

(ii) [Reserved].

(f) Anabolic steroids and human growth hormones. Any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins and corticosteroids) that promotes muscle growth including any salt, ester or isomer of a drug or substance listed in this paragraph, if that salt, ester or isomer promotes muscle growth.

(1) 13beta-ethyl-17beta-hydroxygon-4-en-3-one;

(2) 17alpha-methyl-3alpha, 17beta-dihydroxy-5alpha-androstane;

(3) 17alpha-methyl-3beta, 17beta-dihydroxy-5alpha-androstane;

(4) 17alpha-methyl-3beta, 17beta-dihydroxyandrost-4-ene;

(5) 17alpha-methyl-4-hydroxynandrolone;

(6) 17alpha-methyl-delta1-dihydrotestosterone;

(7) 19-nor-4-androstenediol;

(8) 19-nor-4-androstenedione;

(9) 19-nor-4, 9(10)-androstadienedione;

(10) 19-nor-5-androstenediol;

(11) 19-nor-5-androstenedione;

(12) 1-androstenediol;

(13) 1-androstenedione;

(14) 3alpha, 17beta-dihydroxy-5alpha-androstane;

(15) 3beta, 17beta-dihydroxy-5alpha-androstane;

(16) 4-androstenediol;

(17) 4-androstenedione;

(18) 4-hydroxy-19-nortestosterone;

(19) 4-hydroxytestosterone;

(20) 5-androstenediol;

(21) 5-androstenedione;

(22) Androstenedione;

(23) Bolasterone;

(24) Boldenone;

(25) Boldione;

(26) Calusterone;

(27) Chlorotestosterone (4-chlorotestosterone);

(28) Clostebol;

(29) Dehydrochlormethyltestosterone;

(30) Delta1-dihydrotestosterone;

(31) Desoxymethyltestosterone;

(32) Dihydrotestosterone (4-dihydrotestosterone);

- (33) Drostanolone;
- (34) Ethylestrenol;
- (35) Fluoxymesterone;
- (36) Formebolone;
- (37) Furazabol;
- (38) Human growth hormones;
- (39) Mestanolone;
- (40) Mesterolone;
- (41) Methandienone;
- (42) Methandranone;
- (43) Methandriol;
- (44) Methandrostenolone;
- (45) Methasterone (2a, 17a-dimethyl-5a-androstan-17 β -ol-3-one);
- (46) Methenolone;
- (467) Methyldienolone;
- (478) Methyltestosterone;
- (489) Methyltrienolone;
- (4950) Mibolerone;
- (501) Nandrolone;
- (512) Norbolethone;
- (523) Norclostebol;
- (534) Norethandrolone;
- (545) Normethandrolone;
- (556) Oxandrolone;
- (567) Oxymesterone;
- (578) Oxymetholone;
- (589) Prostanozol (17 β -hydroxy-5a-androstano[3,2-c]pyrazole);
- (60) Stanolone;
- (5961) Stanozolol;
- (602) Stenbolone;
- (613) Testolactone;
- (624) Testosterone;
- (635) Testosterone cypionate;
- (646) Testosterone enanthate;
- (657) Testosterone propionate;
- (668) Tetrahydrogestrinone;
- (679) Trenbolone.

Anabolic steroids that are expressly intended for administration through implants to cattle or other nonhuman species, and that are approved by the federal Food and Drug Administration for such use, shall not be classified as controlled substances under this act and shall not be governed by its provisions.

In addition to the penalties prescribed in article IV of the uniform controlled substances act, any person shall be guilty of a felony who prescribes, dispenses, supplies, sells, delivers, manufactures or possesses with the intent to prescribe, dispense, supply, sell, deliver or manufacture anabolic steroids or any other human growth hormone for purposes of enhancing performance in an exercise, sport or game or hormonal manipulation intended to increase muscle mass, strength or weight without a medical necessity as determined by a physician.

(g) Hallucinogenic substances.

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in the federal Food and Drug Administration approved product -- 7369. (Some other names for dronabinol: (6aR-trans) -6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo [b,d]pyran-1-ol or (-)-delta-9-(trans)-tetrahydrocannabinol).

(h) Other substances. Unless specifically excepted, or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts:

(1) Butorphanol.

(i) The board may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections (b) and (c) of this section from the application of all or any part of this act if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

SECTION 2. That Section 37-2711, Idaho Code, be, and the same is hereby amended to read as follows:

37-2711. SCHEDULE IV. (a) Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) No more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane).

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Alfaxalone 5[alpha]-pregnan-3[alpha]-ol-11,20-dione;

(2) Alprazolam;

(23) Barbital;

(34) Bromazepam;

(45) Camazepam;

(56) Carisprodol;

(67) Chloral betaine;

(78) Chloral hydrate;

(89) Chlordiazepoxide;

(910) Clobazam;

(101) Clonazepam;

(112) Clorazepate;

(123) Clotiazepam;

(134) Cloxazolam;

(145) Delorazepam;

(156) Diazepam;

(167) Dichloralphenazone;

(178) Estazolam;

(189) Ethchlorvynol;

(1920) Ethinamate;

(201) Ethyl loflazepate;

(212) Fludiazepam;

(223) Flurazepam;

(234) Halazepam;

(245) Haloxazolam;

(256) Ketazolam;

(267) Loprazolam;

(278) Lorazepam;

(289) Lormetazepam;

- (2930) Mebutamate;
- (301) Medazepam;
- (312) Meprobamate;
- (323) Methohexital;
- (334) Methylphenobarbital (mephobarbital);
- (345) Midazolam;
- (356) Nimetazepam;
- (367) Nitrazepam;
- (378) Nordiazepam;
- (389) Oxazepam;
- (3940) Oxazolam;
- (401) Paraldehyde;
- (412) Petrichloral;
- (423) Phenobarbital;
- (434) Pinazepam;
- (445) Prazepam;
- (456) Temazepam;
- (467) Tetrazepam;
- (478) Triazolam;
- (489) Quazepam;
- (4950) Zaleplon;
- (501) Zolpidem;
- (512) Zopiclone.

(d) Fenfluramine -- Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

- (1) Dexfenfluramine;
- (2) Fenfluramine.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Cathine ((+)-norpseudoephedrine);
- (2) Diethylpropion;
- (3) Fencamfamin;
- (4) Fenproporex;
- (5) Lorcaserin;
- (6) Mazindol;
- (67) Mefenorex;
- (78) Modafinil;
- (89) Pemoline (including organometallic complexes and chelates thereof);
- (910) Phentermine;
- (101) Pipradrol;
- (112) Sibutramine;
- (123) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

(f) Other substances. Unless specifically excepted, or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

- (1) Pentazocine;
- (2) Fospropofol.

(g) The board may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (c) of this section from the application of all or any part of this act if the compound,

mixture, or preparation contains one (1) or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

Approved March 6, 2014

CHAPTER 34
(H.B. No. 350)

AN ACT

RELATING TO THE BOARD OF PHARMACY; AMENDING SECTION 54-1723A, IDAHO CODE, TO REVISE A PROVISION RELATING TO REGISTRATION TO PRACTICE AS A PHARMACIST; AMENDING SECTION 54-1729, IDAHO CODE, TO REVISE A PROVISION RELATING TO REQUIREMENTS FOR A DRUG OR DEVICE OUTLET DOING BUSINESS IN THIS STATE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1752, IDAHO CODE, TO ADD A DEFINITION AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 54-1754, IDAHO CODE, TO REVISE A PROVISION RELATING TO WHOM A MANUFACTURER OR WHOLESALE DISTRIBUTOR MAY FURNISH PRESCRIPTION DRUGS OR SCHEDULED CONTROLLED SUBSTANCES.

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

SECTION 1. That Section 54-1723A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1723A. REGISTRATION TO ENGAGE IN THE PRACTICE OF PHARMACY INTO IDAHO. (1) To obtain a registration to practice as a pharmacist into the state of Idaho, the applicant shall:

- (a) Be licensed and in good standing in the state from which the applicant practices pharmacy;
- (b) Submit a written application in the form prescribed by the board;
- (c) Pay the fee(s) specified by the board for the issuance of the registration; and
- (d) ~~Be located in one (1) of the fifty (50) states or the District of Columbia; and~~
- ~~(e) Comply with all other requirements of the board.~~

(2) A successful applicant for registration under this section shall be subject to the disciplinary provisions of section 54-1726, Idaho Code, the penalty provisions of section 54-1728, Idaho Code, and the rules of the board.

(3) A successful applicant for registration under this section shall comply with the board's laws and rules of this state unless compliance would violate the laws or rules in the state in which the registrant is located, except as follows:

- (a) A technician shall not exceed the practice limitations for technicians in Idaho;
- (b) A pharmacist shall only substitute drug products in accordance with Idaho law;
- (c) A pharmacist shall only select drug products in accordance with Idaho law; and
- (d) A pharmacist shall not exceed the pharmacy staffing ratio, as defined in rule.

(4) Renewal shall be required annually and submitted to the board no later than the thirtieth day of June. The board shall specify by rule the procedures to be followed and the fees to be paid for renewal of registration.

SECTION 2. That Section 54-1729, Idaho Code, be, and the same is hereby amended to read as follows:

54-1729. REGISTRATION AND LICENSURE OF FACILITIES. (1) All drug or device outlets doing business in or into Idaho shall:

- (a) If a nonresident, be licensed or registered and in good standing in the applicant's state of residence;
- (b) Submit a written application in the form prescribed by the board;
- (c) Pay the fee or fees specified by the board for the issuance of the registration or license; and
- (d) ~~Be located in one (1) of the fifty (50) states or the District of Columbia; and~~
- ~~(e) Have a PIC or director who is licensed or registered by the board, except manufacturers, wholesalers, veterinary drug outlets and limited service outlets without a pharmacy.~~

(2) Each drug or device outlet shall apply for a certificate of registration or a license in one (1) of the following classifications:

- (a) Retail pharmacy;
- (b) Institutional facility;
- (c) Manufacturer;
- (d) Wholesaler;
- (e) Veterinary drug outlet;
- (f) Nonresident central drug outlet;
- (g) Mail service pharmacy;
- (h) Limited service outlet.

(3) The board shall establish by rule under the powers granted to it under sections 54-1718 and 54-1719, Idaho Code, the criteria which each outlet, that has employees or personnel engaged in the practice of pharmacy, must meet to qualify for registration or licensure in each classification designated in subsection (2) of this section. The board may issue various types of certificates with varying restrictions to such outlets designated in subsection (2) of this section where the board deems it necessary by reason of the type of outlet requesting a certificate.

(4) It shall be lawful for an outlet registered or licensed under this section to sell and distribute nonprescription drugs. Outlets engaging in the sale and distribution of such items shall not be deemed to be improperly engaged in the practice of pharmacy. No rule will be adopted by the board under this chapter which shall require the sale of nonprescription drugs by a pharmacist or under the supervision of a pharmacist or otherwise apply to or interfere with the sale and distribution of such medicines.

(5) If the regulatory board or licensing authority of the state in which a nonresident outlet is located fails or refuses to conduct an inspection or fails to obtain records or reports required by the board, upon reasonable notice to the nonresident outlet, the board may conduct an inspection. Nonresident outlets shall also pay the actual costs of the out-of-state inspection of the outlet, including the transportation, lodging and related expenses of the board's inspector.

(6) A successful applicant for registration under the provisions of this section shall be subject to the disciplinary provisions of section 54-1726, Idaho Code, the penalty provisions of section 54-1728, Idaho Code, and the rules of the board.

(7) A successful applicant for registration under the provisions of this section shall comply with the board's laws and rules of this state unless compliance would violate the laws or rules in the state in which the registrant is located, except as follows:

- (a) A technician shall not exceed the practice limitations for technicians in Idaho;
- (b) A pharmacist shall only substitute drug products in accordance with the board's laws and rules;

(c) A pharmacist shall only select drug products in accordance with the board's laws and rules; and

(d) A pharmacy shall not exceed the pharmacy staffing ratio, as defined in rule.

(8) Renewal shall be required annually and submitted to the board no later than ~~the thirtieth day of June~~ 30. The board shall specify by rule the procedures to be followed and the fees to be paid for renewal of registration or licensure.

SECTION 3. That Section 54-1752, Idaho Code, be, and the same is hereby amended to read as follows:

54-1752. DEFINITIONS. As used in sections 54-1751 through 54-1759, Idaho Code:

(1) "Authentication" means to affirmatively verify before any wholesale distribution of a prescription drug occurs that each transaction listed on the pedigree has occurred.

(2) "Authorized distributor of record" means a wholesale distributor with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drug. An ongoing relationship is deemed to exist between such wholesale distributor and a manufacturer when the wholesale distributor, including any affiliated group of the wholesale distributor, as defined in section 1504 of the Internal Revenue Code, complies with the following:

(a) The wholesale distributor has a written agreement currently in effect with the manufacturer evidencing such ongoing relationship; and

(b) The wholesale distributor is listed on the manufacturer's current list of authorized distributors of record, which is updated by the manufacturer on no less than a monthly basis.

(3) "Chain pharmacy warehouse" means a physical location for prescription drugs that acts as a central warehouse and performs intracompany sales or transfers of such drugs to a group of chain pharmacies that have the same common ownership and control.

(4) "Colicensed partner or product" means an instance where two (2) or more parties have the right to engage in the manufacturing and/or marketing of a prescription drug, consistent with the federal food and drug administration's implementation of the prescription drug marketing act.

(5) "Drop shipment" means the sale of a prescription drug to a wholesale distributor or chain pharmacy warehouse by the manufacturer of the prescription drug, or that manufacturer's colicensed product partner, that manufacturer's third party logistics provider or that manufacturer's exclusive distributor, whereby the wholesale distributor or chain pharmacy warehouse takes title but not physical possession of such prescription drug and the wholesale distributor invoices the pharmacy or chain pharmacy warehouse, or other person authorized by law to dispense or administer such drug to a patient, and the pharmacy or chain pharmacy warehouse or other authorized person receives delivery of the prescription drug directly from the manufacturer, or that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor.

(6) "Facility" means a facility of a wholesale distributor where prescription drugs are stored, handled, repackaged or offered for sale.

(7) "Manufacturer" means a person licensed or approved by the federal food and drug administration to engage in the manufacture of drugs or devices, consistent with the federal food and drug administration definition of "manufacturer" under its regulations and guidance implementing the prescription drug marketing act.

(8) "Manufacturer's exclusive distributor" means anyone who contracts with a manufacturer to provide or coordinate warehousing, distribution or other services on behalf of a manufacturer and who takes title to that manu-

manufacturer's prescription drug, but who does not have general responsibility to direct the sale or disposition of the manufacturer's prescription drug. Such manufacturer's exclusive distributor must be licensed as a wholesale distributor under section 54-1753, Idaho Code, and to be considered part of the normal distribution channel, must also be an authorized distributor of record.

(9) "Normal distribution channel" means a chain of custody for a prescription drug that goes from a manufacturer of the prescription drug, from that manufacturer to that manufacturer's colicensed partner, from that manufacturer to that manufacturer's third party logistics provider, from that manufacturer to that manufacturer's exclusive distributor, or from that manufacturer directly or through its colicensed partner, third party logistics provider or manufacturer's exclusive distributor to a repackager who is an authorized distributor of record for the manufacturer, whose facility is registered with the United States food and drug administration and who engages in the practice of repackaging the original dosage form of a prescription drug in accordance with applicable regulations and guidelines of the United States food and drug administration, either directly or by drop shipment, to:

(a) A pharmacy to a patient;

(b) Other designated persons authorized by law to dispense or administer such drug to a patient;

(c) A wholesale distributor to a pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient;

(d) A wholesale distributor to a chain pharmacy warehouse to that chain pharmacy warehouse's intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient; or

(e) A chain pharmacy warehouse to the chain pharmacy warehouse's intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient.

(10) "Pedigree" means a document or electronic file containing information that records each wholesale distribution of any given prescription drug.

(11) "Person" means an individual, corporation, government, governmental subdivision or agency, partnership, business trust, association or any other legal entity.

(12) "Prescription drug" means any drug, including any biological product, except for blood and blood components intended for transfusion or biological products that are also medical devices, required by federal law or federal regulation to be dispensed only by a prescription, including finished dosage forms and bulk drug substances, subject to section 503(b) of the federal food, drug and cosmetic act.

(123) "Repackage" means repackaging or otherwise changing the container, wrapper or labeling to further the distribution of a prescription drug, excluding that completed by the pharmacist responsible for dispensing product to the patient.

(134) "Repackager" means a person who repackages.

(145) "Third party logistics provider" means anyone who contracts with a prescription drug manufacturer to provide or coordinate warehousing, distribution or other services on behalf of a manufacturer, but does not take title to the prescription drug or have general responsibility to direct the prescription drug's sale or disposition. Such third party logistics provider must be licensed as a wholesale distributor under section 54-1753, Idaho Code, and to be considered part of the normal distribution channel, must also be an authorized distributor of record.

(156) "Veterinary pharmacy" means a business properly licensed as a pharmacy engaging exclusively in the preparation and dispensing of prescription drugs for veterinary prescribed use.

(167) "Wholesale distributor" means anyone engaged in the wholesale distribution of prescription drugs including, but not limited to:

- (a) Manufacturers;
- (b) Repackagers;
- (c) Own-label distributors;
- (d) Private-label distributors;
- (e) Jobbers;
- (f) Brokers;
- (g) Warehouses, including manufacturers' and distributors' warehouses;
- (h) ~~Manufacturer's~~ Manufacturers' exclusive distributors;
- (i) Authorized distributors of record;
- (j) Drug wholesalers or distributors;
- (k) Independent wholesale drug traders;
- (l) Specialty wholesale distributors;
- (m) Third party logistics providers;
- (n) Retail pharmacies that conduct wholesale distribution; and
- (o) Chain pharmacy warehouses that conduct wholesale distribution.

To be considered part of the normal distribution channel, such wholesale distributor, except for a chain pharmacy warehouse not engaged in wholesale distribution, must also be an authorized distributor of record.

(178) "Wholesale distribution" means distribution of prescription drugs to persons other than a consumer or patient, but does not include:

- (a) Intracompany sales of prescription drugs, meaning any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership and control of a corporate entity, or any transaction or transfer between colicensees of a colicensed product.
- (b) The sale, purchase, distribution, trade or transfer of a prescription drug or offer to sell, purchase, distribute, trade or transfer a prescription drug for emergency medical reasons.
- (c) The distribution of prescription drug samples by manufacturers' representatives.
- (d) Drug returns, when conducted by a hospital, health care entity or charitable institution in accordance with 21 CFR 203.23.
- (e) Drug donations, when conducted in accordance with sections 54-1760 through 54-1765, Idaho Code.
- (f) The sale of minimal quantities of prescription drugs by pharmacies to licensed practitioners for office use.
- (g) The sale, purchase or trade of a drug, an offer to sell, purchase or trade a drug, or the dispensing of a drug pursuant to a prescription.
- (h) The sale, transfer, merger or consolidation of all or part of the business of a pharmacy or pharmacies from or with another pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets.
- (i) The sale, purchase, distribution, trade or transfer of a prescription drug from one (1) authorized distributor of record to one (1) additional authorized distributor of record when the manufacturer has stated in writing to the receiving authorized distributor of record that the manufacturer is unable to supply such prescription drug and the supplying authorized distributor of record states in writing that the prescription drug being supplied had, until that time, been exclusively in the normal distribution channel.
- (j) The delivery of, or offer to deliver, a prescription drug by a common carrier solely in the common carrier's usual course of business

of transporting prescription drugs, and such common carrier does not store, warehouse or take legal ownership of the prescription drug.

(k) The sale or transfer from a retail pharmacy or chain pharmacy warehouse of expired, damaged, returned or recalled prescription drugs to the original manufacturer or third party returns processor, including a reverse distributor.

(l) The sale of a prescription drug by a veterinary pharmacy to the prescribing veterinarian in which:

(i) The prescribing veterinarian takes title but not physical possession of such prescription drug and invoices the owner or person having custody of the animal for whom the prescription drug is intended; and

(ii) Pursuant to a valid prescription drug order the veterinary pharmacy labels and delivers the prescription drug directly to the owner or person having custody of the animal for whom the prescription drug is intended.

SECTION 4. That Section 54-1754, Idaho Code, be, and the same is hereby amended to read as follows:

54-1754. RESTRICTIONS ON TRANSACTIONS. (1) A wholesale distributor shall receive prescription drug returns or exchanges from a pharmacy or chain pharmacy warehouse pursuant to the terms and conditions of the agreement between the wholesale distributor and the pharmacy or chain pharmacy warehouse. Returns of expired, damaged, recalled or otherwise nonsaleable pharmaceutical product shall be distributed by the receiving wholesale distributor only to either the original manufacturer or third party returns processor, including a reverse distributor. The returns or exchanges of prescription drugs, saleable or otherwise, including any redistribution by a receiving wholesaler, shall not be subject to the pedigree requirement of section 54-1755, Idaho Code, so long as they are exempt from pedigree under the federal food and drug administration's currently applicable prescription drug marketing act guidance. Wholesale distributors and pharmacies shall be held accountable for administering their returns process and ensuring that the aspects of this operation are secure and do not permit the entry of adulterated and counterfeit product.

(2) A manufacturer or wholesale distributor shall furnish prescription drugs only to a person licensed by the board or other appropriate state licensing authorities. ~~Before furnishing prescription drugs to a person not known~~ agency to the manufacturer manufacture, distribute, dispense, conduct research or wholesale distributor, the manufacturer or wholesale distributor shall affirmatively verify that the person is legally authorized to receive the independently administer such prescription drugs by contacting the appropriate state licensing authorities. A manufacturer or wholesale distributor shall furnish a scheduled controlled substance listed in section 37-2705, 37-2707, 37-2709, 37-2711 or 37-2713, Idaho Code, only to a person who has been issued a valid controlled substance registration by the United States drug enforcement administration and the Idaho board of pharmacy, unless exempted by state or federal law.

(3) Prescription drugs furnished by a manufacturer or wholesale distributor shall be delivered only to the premises listed on the license; provided that the manufacturer or wholesale distributor may furnish prescription drugs to an authorized person or agent of that person at the premises of the manufacturer or wholesale distributor if:

(a) The identity and authorization of the recipient is properly established; and

(b) This method of receipt is employed only to meet the immediate needs of a particular patient of the authorized person.

(4) Prescription drugs may be furnished to a hospital pharmacy receiving area provided that a pharmacist or authorized receiving personnel signs, at the time of delivery, a receipt showing the type and quantity of the prescription drug so received. Any discrepancy between receipt and the type and quantity of the prescription drug actually received shall be reported to the delivering manufacturer or wholesale distributor by the next business day after the delivery to the pharmacy receiving area.

(5) A manufacturer or wholesale distributor shall not accept payment for, or allow the use of, a person's credit to establish an account for the purchase of prescription drugs from any person other than the owner(s) of record, the chief executive officer or the chief financial officer listed on the license of a person legally authorized to receive prescription drugs. Any account established for the purchase of prescription drugs must bear the name of the licensee.

Approved March 6, 2014

CHAPTER 35
(H.B. No. 361)

AN ACT

RELATING TO PROPRIETARY SCHOOLS; AMENDING SECTION 33-2406, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CONDITION OF REGISTRATION AND TO PROVIDE FOR AN EXEMPTION.

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

SECTION 1. That Section 33-2406, Idaho Code, be, and the same is hereby amended to read as follows:

33-2406. SURETY BOND. Unless exempted as provided in this section, aAs a condition of registration, a proprietary school shall obtain a surety bond or other financial instrument in a format approved by the director, issued by an insurer duly authorized to do business in this state or other financial instrument in a format approved by the director, in favor of the state of Idaho for the indemnification of any student for any loss suffered as a result of a failure by such proprietary school to satisfy its obligations pursuant to the terms and conditions of any contract for tuition or other instructional fees entered into between the proprietary school and a student, or as a result of any violation of the provisions of this chapter or the rules promulgated pursuant to this chapter. The term of the bond shall extend over the period of registration, and shall be in such amount as is established in rule by the board.

The director may submit a demand upon the surety on the bond on behalf of a student or students when it is reasonably believed that a loss has occurred due to a failure by such proprietary school to satisfy its obligations pursuant to the terms and conditions of any contract for tuition or other instructional fees entered into between the proprietary school and a student, or as a result of any violation of the provisions of this chapter or the rules promulgated pursuant to this chapter.

Neither the principal nor surety on the bond or other financial instrument may terminate the coverage of the bond, except upon giving one hundred twenty (120) days' prior written notice to the director.

Proprietary schools that are accredited by an accreditation organization recognized by the board shall not be required to obtain a surety bond or other financial instrument.

Approved March 6, 2014

CHAPTER 36
(H.B. No. 377)

AN ACT

RELATING TO INCOME TAXATION; AMENDING SECTION 63-3022L, IDAHO CODE, TO PROVIDE A CODE REFERENCE AND TO PROVIDE A DEFINITION; AMENDING SECTION 63-3036B, IDAHO CODE, TO PROVIDE REFERENCE TO THE DEFINITION OF "INDIVIDUAL" AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-3082, IDAHO CODE, TO PROVIDE TAXATION FOR A PASS-THROUGH ENTITY; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3022L, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022L. INDIVIDUALS WHO ARE OWNERS OF AN INTEREST IN A PASS-THROUGH ENTITY OR BENEFICIARIES OF A TRUST OR ESTATE. (1) Individuals who are not a resident of Idaho as defined in section 63-3014, Idaho Code, but who are owners of an interest in a pass-through entity, as defined in section 63-3006C, Idaho Code, transacting business in Idaho or who are beneficiaries of a trust or estate with income taxable in Idaho may have Idaho tax relating to income described in subsection (2) of this section reported and paid by the pass-through entity on a return, referred to in this section as a "composite return." Income subject to this subsection shall be taxed at the rate applicable to corporations. The option to file a composite return and pay tax for nonresident owners is in lieu of the backup withholding requirements of section 63-3036B, Idaho Code.

(2) The provisions of subsection (1) of this section ~~applies~~ apply to the share of any income, loss, deduction or credit of a pass-through entity required to be included on such individual's Idaho return.

(3) For purposes of subsection (2) of this section, deductions, loss and credits allowed in computing the tax liability and income attributable to the individual owner shall be prescribed in the rules of the state tax commission pursuant to section 63-3026A, Idaho Code.

(4) If a corporation, partnership, trust or estate transacting business in Idaho does not comply with the provisions of section 63-3036B, Idaho Code, and also fails to file an Idaho income tax return reporting all of the items described in subsection (2) of this section or fails to pay any tax due thereon, such corporation, partnership, trust or estate shall be liable for tax on such items at the rate applicable to corporations. An entity may rely upon information provided by the individual indicating state of residency, as prescribed in the rules of the state tax commission.

(5) A pass-through entity that files a composite return as described in subsection (1) of this section shall include a statement with the return showing, and report on the K-1 to each individual whose income is included in the return, each individual's share of the income reported on the return and the tax paid by the pass-through entity on each individual's share of the income reported on the return. The statement shall be made on a form prescribed by the state tax commission and shall contain any other information required by it. If the individual filed an Idaho return, the individual shall include the income shown on the K-1 to that individual and shall be entitled to a credit for the tax paid by the entity on such income shown on the K-1 to that individual.

(6) "Individual" for purposes of this section means a:

(a) Natural person;

(b) Grantor trust as described in sections 673 through 677 or section 678 of the Internal Revenue Code;

(c) Qualified subchapter S trust as described in section 1361(d)(3) of the Internal Revenue Code; or

(d) Single member limited liability company that has not elected to be classified as a corporation and is treated as a disregarded entity for federal income tax purposes.

SECTION 2. That Section 63-3036B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3036B. PASS-THROUGH ENTITIES -- BACKUP WITHHOLDING. (1) A pass-through entity, as defined in section 63-3006C, Idaho Code, that is transacting business in Idaho during a taxable year shall withhold tax as prescribed in this section.

(2) For each nonresident individual who has income described in subsection (2) of section 63-3022L, Idaho Code, the pass-through entity shall withhold tax on the individual's share of income from the pass-through entity required to be included in Idaho taxable income of the individual, at the highest marginal rate applicable for the taxable year under section 63-3024, Idaho Code.

(3) A pass-through entity is not required to withhold taxes under this section:

(a) In regard to an individual who is a resident of Idaho as defined in section 63-3013, Idaho Code; or

(b) If the pass-through entity is a publicly traded partnership, as defined in section 7704(b) of the Internal Revenue Code, that is treated as a partnership for purposes of the Internal Revenue Code and that has agreed to file an annual information return reporting the name, address, taxpayer identification number and other information requested by the state tax commission concerning each unitholder whose distributive share of partnership income from Idaho sources is more than five hundred dollars (\$500); or

(c) If withholding is not required pursuant to a rule adopted under this section; or

(d) In regard to an individual who is not a resident of Idaho as defined in section 63-3013, Idaho Code, but for whom the pass-through entity has reported and paid the tax relating to said individual on a composite return pursuant to section 63-3022L, Idaho Code. An entity may rely upon information provided by the individual indicating state of residency as prescribed in the rules of the state tax commission.

(4) A pass-through entity that is required to withhold tax under this section shall file a withholding return with the state tax commission setting forth the amount of income described in subsection (2) of section 63-3022L, Idaho Code, the amount of tax withheld under this section and any other information required by the state tax commission. The return shall be filed with the state tax commission on the form and taxes withheld under this section shall be paid to the state tax commission in the time and manner prescribed by rules of the state tax commission. To the extent the state tax commission finds practicable, the rules shall generally conform to the requirements of section 63-3035, Idaho Code.

(5) A pass-through entity that is required to withhold tax under the provisions of this section shall furnish a statement to each individual on whose behalf tax is withheld. The statement shall state the amount of tax withheld on behalf of the individual for the taxable year of the pass-through entity. The statement shall be made on a form prescribed by the state tax commission and shall contain any other information required by it.

(6) A pass-through entity is liable to this state for amounts of tax required to be withheld and paid under the provisions of this section. A pass-through entity is not liable to an officer, director, or individual owner of an interest in the pass-through entity for amounts required to be withheld

under the provisions of this section that were paid to the state tax commission as prescribed in this section. Amounts required to be withheld and paid over to the state tax commission under this section that are not withheld or paid over at the time and in the manner required by the provisions of this section shall be a deficiency in tax as defined in section 63-3044, Idaho Code.

(7) For purposes of this section, "individual" shall have the same meaning as in subsection (6) of section 63-3022L, Idaho Code.

SECTION 3. That Section 63-3082, Idaho Code, be, and the same is hereby amended to read as follows:

63-3082. ADDITIONAL TAX REQUIRED WHEN FILING INCOME TAX RETURN. (1) Every person required to file an income tax return shall pay a tax of ten dollars (\$10.00). For this purpose, a husband and wife filing a joint return shall be deemed a single person. This tax shall be in the nature of an excise tax upon the receipt of the income which requires the filing of such return.

(2) ~~When, pursuant to section 63-3022L, Idaho Code, the income tax of a pass-through entity or of a beneficiary of a trust or estate is paid by a corporation, partnership, trust or estate, the corporation, partnership, trust or estate~~ A pass-through entity as defined in section 63-3006C, Idaho Code, shall also pay the tax imposed in subsection (1) of this section for each individual included within section 63-3022L, Idaho Code, on the composite return.

(3) For purposes of this section, a husband and wife filing a joint federal return may be deemed a single individual.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2014.

Approved March 6, 2014

CHAPTER 37
(H.B. No. 383)

AN ACT

RELATING TO CERTIFICATION OF PROPERTY TAX BUDGETS; AMENDING SECTION 63-803, IDAHO CODE, TO REVISE THE CALCULATION OF TAXABLE VALUE; AMENDING SECTION 63-803, IDAHO CODE, AS AMENDED BY SECTION 3, CHAPTER 243, LAWS OF 2013, TO REVISE THE CALCULATION OF TAXABLE VALUE; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 63-803, Idaho Code, be, and the same is hereby amended to read as follows:

63-803. CERTIFICATION OF BUDGETS IN DOLLARS. (1) Whenever any taxing district is required by law to certify to any county treasurer, county auditor, county assessor, county commissioners or to any other county officer, any property tax levy, upon property located within said district, such certification shall, notwithstanding any other provision of the law applicable to any such district, be made at the time and in the manner hereinafter provided.

(2) The county auditor shall inform each of the taxing districts within his county of the taxable value of that district as soon as such value is known to the auditor, whether the value comes from the appraisal and assessment of real and personal property, or from allocation of the taxable value of operating property, or from other sources.

(3) Using the taxable value of the district, the council, trustees, board or other governing body of any taxing district shall certify the total amount required from a property tax upon property within the district to raise the amount of money fixed by their budget as previously prepared or approved. The amount of money so determined shall be certified in dollars to the appropriate county commissioners. Any taxing unit, except regional airport authorities, located in more than one (1) county shall divide its dollar budget for certification to the separate counties by multiplying the amount of such budget by a fraction, the numerator of which shall be the total taxable value of all property in such taxing unit within the county to which such certification is to be made, and the denominator of which shall be the total taxable value of property in such taxing unit in all such counties. Budget certification to the participating counties of regional airport authorities shall be made in the manner prescribed in section 21-807(10), Idaho Code. Taxable value shall be certified by the county auditor of each affected county to such taxing unit and such certification shall be used in this formula. Except as provided in section 33-805, Idaho Code, relating to school emergency fund levies, the certification to the county commissioners required in this section shall be made not later than the Thursday prior to the second Monday in September, unless, upon application therefor, the county commissioners grant an extension of not more than seven (7) working days. After receipt of this certification, the county commissioners shall make a tax levy as a percent of taxable value of all property in the taxing district which, when applied to the tax rolls, will meet the budget requirements certified by such taxing districts.

(4) Except as provided in subsection (1)(a) through (f) of section 50-2908, Idaho Code, for the purpose of this section, "taxable value" shall mean the portion of the equalized assessed value, less any exemptions, ~~except the exemption for personal property in section 63-602KK(2), Idaho Code,~~ and the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area of an urban renewal district, located within each taxing district which certifies a budget to be raised from a property tax levy. When the county auditor is notified of revenues sufficient to cover expenses as provided in section 50-2903(5), Idaho Code, taxable value shall also include the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area. For each taxing district, taxable value shall include the value from the property and operating property rolls for the current year and subsequent and missed property rolls for the prior year or the best estimate of the subsequent and missed property rolls for the current year.

SECTION 2. That Section 63-803, Idaho Code, as amended by Section 3, Chapter 243, Laws of 2013, be, and the same is hereby amended to read as follows:

63-803. CERTIFICATION OF BUDGETS IN DOLLARS. (1) Whenever any taxing district is required by law to certify to any county treasurer, county auditor, county assessor, county commissioners or to any other county officer, any property tax levy, upon property located within said district, such certification shall, notwithstanding any other provision of the law applicable to any such district, be made at the time and in the manner hereinafter provided.

(2) The county auditor shall inform each of the taxing districts within his county of the taxable value of that district as soon as such value is known to the auditor, whether the value comes from the appraisal and assessment of real and personal property, or from allocation of the taxable value of operating property, or from other sources.

(3) Using the taxable value of the district, the council, trustees, board or other governing body of any taxing district shall certify the total amount required from a property tax upon property within the district to raise the amount of money fixed by their budget as previously prepared or approved. The amount of money so determined shall be certified in dollars to the appropriate county commissioners. Any taxing unit, except regional airport authorities, located in more than one (1) county shall divide its dollar budget for certification to the separate counties by multiplying the amount of such budget by a fraction, the numerator of which shall be the total taxable value of all property in such taxing unit within the county to which such certification is to be made, and the denominator of which shall be the total taxable value of property in such taxing unit in all such counties. Budget certification to the participating counties of regional airport authorities shall be made in the manner prescribed in section 21-807(10), Idaho Code. Taxable value shall be certified by the county auditor of each affected county to such taxing unit and such certification shall be used in this formula. Except as provided in section 33-805, Idaho Code, relating to school emergency fund levies, the certification to the county commissioners required in this section shall be made not later than the Thursday prior to the second Monday in September, unless, upon application therefor, the county commissioners grant an extension of not more than seven (7) working days. After receipt of this certification, the county commissioners shall make a tax levy as a percent of taxable value of all property in the taxing district which, when applied to the tax rolls, will meet the budget requirements certified by such taxing districts.

(4) Except as provided in subsection (1)(a) through (e) of section 50-2908, Idaho Code, for the purpose of this section, "taxable value" shall mean the portion of the equalized assessed value, less any exemptions, ~~except the exemption for personal property in section 63-602KK(2), Idaho Code,~~ and the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area of an urban renewal district, located within each taxing district which certifies a budget to be raised from a property tax levy. When the county auditor is notified of revenues sufficient to cover expenses as provided in section 50-2903(5), Idaho Code, taxable value shall also include the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area. For each taxing district, taxable value shall include the value from the property and operating property rolls for the current year and subsequent and missed property rolls for the prior year or the best estimate of the subsequent and missed property rolls for the current year.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 2014. Section 2 of this act shall be in full force and effect on and after January 1, 2017.

Approved March 6, 2014

CHAPTER 38
(H.B. No. 389)

AN ACT

RELATING TO VEHICLES; AMENDING SECTION 49-114, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 49-121, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 49-123, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-205, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CERTAIN FILING; AMENDING SECTION 49-401B, IDAHO CODE, TO REVISE PROVISIONS RELATING TO AN APPLICATION FOR REGISTRATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-402C, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DISCONTINUING A SPECIAL LICENSE PLATE PROGRAM; AMENDING SECTION 49-437, IDAHO CODE, TO REVISE A TERM; AMENDING SECTION 49-443, IDAHO CODE, TO REVISE PROVISIONS RELATING TO LICENSE PLATES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-443B, IDAHO CODE, TO REVISE PROVISIONS RELATING TO LICENSE PLATES FOR STATE VEHICLES AND VEHICLES OF TAXING DISTRICTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-502, IDAHO CODE, TO PROVIDE FOR AN EXCEPTION AND TO REVISE A CODE REFERENCE; AMENDING SECTION 49-504, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN CERTIFICATES OF TITLE; AMENDING SECTION 49-504A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CERTAIN PENALTY; AMENDING SECTION 49-511, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE CANCELLATION OR DISCHARGE OF A LIEN OR ENCUMBRANCE UPON A CERTAIN TITLE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-523, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE AGE OF A VEHICLE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-524, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A VEHICLE ACQUIRED IN A SETTLEMENT; AMENDING SECTION 49-525, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN SALVAGE CERTIFICATES OF TITLE AND TO REVISE PROVISIONS RELATING TO CERTAIN OWNERSHIP DOCUMENTS AND BRANDS RETRIEVED BY THE NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM; AMENDING SECTION 49-811, IDAHO CODE, TO REVISE A CODE REFERENCE; AMENDING SECTION 49-948, IDAHO CODE, TO REVISE A CODE REFERENCE; AMENDING SECTION 49-1818, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DEPOSITS IN A TRUST ACCOUNT; AMENDING SECTION 67-7040, IDAHO CODE, TO REMOVE A REFERENCE TO ROWBOATS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 67-7101, IDAHO CODE, TO REVISE DEFINITIONS.

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

SECTION 1. That Section 49-114, Idaho Code, be, and the same is hereby amended to read as follows:

49-114. DEFINITIONS -- M. (1) "Major component part" for vehicles means a rear or rear clip, cowl, frame or subframe or inner structure forward of the cowl, body or center, passenger area, cab, front or front end assembly, or front clip or nose section or roof of passenger compartment such other part which is critical to the safety of the vehicle. "Major component part" for vessels means a hull, bow, gunnel, stern or transom, or permanently attached propulsion unit.

(2) "Manifest" means a form used for identifying the quantity, composition, origin, routing, waste or material identification code and destination of hazardous material or hazardous waste during any transportation within, through, or to any destination in this state.

(3) "Manufactured home." (See section 39-4105, Idaho Code)

(4) "Manufacturer" means every person engaged in the business of constructing or assembling vehicles of a type required to be registered at

an established place of business in this state. The term, for purposes of sections 49-1613 through 49-1615, 49-1617, 49-1622 and 49-1623, Idaho Code, shall include a distributor and other factory representatives.

(5) "Manufacturer's year designation" means the model year designated by the vehicle manufacturer, and not the year in which the vehicle is, in fact, manufactured.

(6) "Maximum gross weight" means the scale weight of a vehicle, equipped for operation, to which shall be added the maximum load to be carried as declared by the owner in making application for registration. When a vehicle against which a registration fee is assessed is a combination of vehicles, the term "maximum gross weight" means the combined maximum gross weights of all vehicles in the combination.

(7) "Metal tire." (See "Tires," section 49-121, Idaho Code)

(8) "Mileage" means actual distance that a vehicle has traveled.

(9) "Moped" means a limited-speed motor-driven cycle having:

(a) Both motorized and pedal propulsion that is not capable of propelling the vehicle at a speed in excess of thirty (30) miles per hour on level ground, whether two (2) or three (3) wheels are in contact with the ground during operation. If an internal combustion engine is used, the displacement shall not exceed fifty (50) cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged; or

(b) Two (2) wheels or three (3) wheels with no pedals, which is powered solely by electrical energy, has an automatic transmission, a motor which produces less than two (2) gross brake horsepower, is capable of propelling the device at a maximum speed of not more than thirty (30) miles per hour on level ground and as originally manufactured, meets federal motor vehicle safety standards for motor-driven cycles. A moped is not required to be titled and no motorcycle endorsement is required for its operator.

(10) "Motorbike" means a vehicle as defined in section 67-7101, Idaho Code. Such vehicle shall be titled and may be approved for motorcycle registration pursuant to section 49-402, Idaho Code, upon certification by the owner of the installation and use of conversion components that make the motorbike compliant with federal motor vehicle safety standards.

(11) "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider, designed to travel on not more than three (3) wheels in contact with the ground or designed to travel on two (2) wheels in contact with the ground which is modified by the addition of two (2) stabilizing wheels on the rear of the motor vehicle, that meets the federal motor vehicle safety standards as originally designed, and includes a converted motorbike, but does not include a motor-driven cycle, a motorbike, a tractor or a moped.

(12) "Motor carrier" means an individual, partnership, corporation or other legal entity engaged in the transportation by motor vehicle of persons or property in the furtherance of a business or for hire.

(13) "Motor-driven cycle" means a cycle with a motor that produces five (5) brake horsepower or less as originally manufactured that meets federal motor vehicle safety standards as originally designed, and does not include mopeds. Such vehicle shall be titled and a motorcycle endorsement is required for its operation.

(14) "Motor home" means a vehicular unit designed to provide temporary living quarters, built into an integral part or permanently attached to a self-propelled motor vehicle chassis. The vehicle must contain permanently installed independent life support systems which meet the national fire protection association (NFPA) 1192 standard on recreational vehicles, and provide at least four (4) of the following facilities: cooking, refrigeration or icebox, self-contained toilet, heating and/or air conditioning, a

potable water supply system, including a faucet and sink, separate 110-125 volt electrical power supply and/or LP-gas supply.

(15) "Motorized wheelchair" means a motor vehicle with a speed not in excess of eight (8) miles per hour, designed for and used by a person with a disability.

(16) "Motor number." (See "Identifying number," section 49-110, Idaho Code)

(17) "Motor vehicle." (See "Vehicle," section 49-123, Idaho Code)

(18) "Motor vehicle liability policy" means an owner's or operator's policy of liability insurance, certified as provided in section 49-1210, Idaho Code, as proof of financial responsibility, and issued by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

(19) "Motor vehicle record" means any record that pertains to a motor vehicle registration, motor vehicle title or identification documents or other similar credentials issued by the department or other state or local agency.

SECTION 2. That Section 49-121, Idaho Code, be, and the same is hereby amended to read as follows:

49-121. DEFINITIONS -- T. (1) "Temporary supplemental lot" means a location other than the principal place of business, or supplemental lot within the same or adjacent county as the principal place of business, where a licensed dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten (10) days for a specific purpose such as auto shows, auctions, shopping center promotions, tent sales, etc. Temporary supplemental lots shall meet all local zoning and building codes for the type of business being conducted. The requirements for a principal place of business shall not be applicable to temporary supplemental lot locations. The adjacent county restriction shall not apply if the dealer holds the franchise for the products to be displayed or sold and has approval from a manufacturer for the location where the proposed temporary supplemental lot license will be issued by the department. Nonfranchised dealers shall be permitted to temporarily display or sell their products within a one hundred seventy-five (175) mile radius of their principal place of business, upon approval by the department.

(2) "Tires" means:

(a) Metal. Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

(b) Pneumatic. Every tire in which compressed air is designed to support the load.

(c) Snow tire. Every rubber tire with tread design or material embedded in the tire to improve winter traction except studded tires.

(d) Solid rubber. Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(e) Studded tire. Every tire with built-in lugs of tungsten carbide or other suitable material designed to contact the road surface for improved winter traction.

(3) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel.

(4) "Traffic lane" or "lane of travel" means that portion of the roadway for movement of a single line of vehicles.

(5) "Traffic-control device" means any device, whether manually, electrically or mechanically operated, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

(6) "Trailer" means:

(a) General. Every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle.

(b) Fifth-wheel trailer. A vehicular unit equipped in the same manner as a travel trailer but constructed with a raised forward section that allows a bi-level floor plan. This style is designed to be towed by a vehicle equipped with a device known as a fifth-wheel hitch, which is typically installed in the bed of a pickup truck.

(c) Fold down camping trailer. A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls, which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters, for recreational, camping or travel use.

(d) Park trailer. A trailer designed to be towed by a motorized vehicle, and of such size and weight as not to require a special highway movement permit. It is designed for seasonal or temporary living quarters and may be connected to utilities necessary for operation of installed fixtures and appliances. It is built on a single permanent chassis and constructed to permit set up by persons without special skills.

(e) Pole trailer. Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

(f) Semitrailer. Every vehicle without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle.

(g) Travel trailer. A vehicular unit, mounted on wheels designed to provide temporary living quarters for recreational, camping, travel or emergency use and of such size or weight as not to require special highway movement permits when towed by a motorized vehicle.

(h) Utility trailer. (See "Utility trailer," section 49-122, Idaho Code)

(7) "Transitional ownership document" means a document used to perfect a lien against creditors or subsequent purchasers when the primary ownership document is not available and the selling dealer, new security interest holder or their agent, to the best of their knowledge, will not have possession of the primary ownership document, within thirty (30) days of the sale, or if no sale is involved, the date the contract or security agreement being perfected was signed, and contains all of the following:

(a) The date of sale or if no sale is involved, the date the contract or security agreement being perfected was signed;

(b) The name and address of each owner of the vehicle;

(c) The name and address of each security interest holder;

(d) If there are multiple security interest holders, the priorities of interest if the security interest holders do not jointly hold a single security interest;

(e) The vehicle identification number;

(f) The name of the security interest holder or person who submits the transitional ownership document for the security interest holder; and

(g) Any other information the department may require for its records.

(8) "Transportation," for the purposes of chapter 22, title 49, Idaho Code, means the movement of any regulated quantity of hazardous material or hazardous waste within, through, or to any destination in this state upon the highways of this state.

(9) "Transporter" means every person engaged in the business of delivering vehicles of a type required to be registered from a manufacturing, assembling or distributing plant to dealers or sales agents of a manufacturer,

except in chapter 22, title 49, Idaho Code, where it means any person who transports a hazardous material or hazardous waste within, through, or to any destination upon the highways of this state.

(10) "Truck" means:

(a) Refuse/sanitation. Any vehicle designed and used solely for the purpose of transporting refuse.

(b) General. Every motor vehicle exceeding eight thousand (8,000) pounds gross weight designed, used or maintained primarily for the transportation of property.

(c) Pickup truck. Every motor vehicle eight thousand (8,000) pounds gross weight or less which is designed, used or maintained primarily for the transportation of property.

(d) Truck camper. A portable unit constructed to provide temporary living quarters for recreational, travel or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pickup truck, and containing at least one (1) of the following facilities: stove; refrigerator or icebox; self-contained toilet; heater or air conditioner; potable water supply including a faucet and sink; separate 110-125 volt electrical power supply; or LP-gas supply. Truck campers originally constructed with an overall length of six (6) feet or longer shall be titled as provided in chapter 5 of this title 49. A truck camper does not include pickup hoods, shells or canopies.

(e) Truck tractor. Every motor vehicle designed and used primarily for drawing other vehicles but not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(11) "True mileage driven" means the mileage of the vehicle as registered by the odometer within the manufacturer's designed tolerance.

SECTION 3. That Section 49-123, Idaho Code, be, and the same is hereby amended to read as follows:

49-123. DEFINITIONS -- V. (1) "Variable load suspension axle" means an axle or axles designed to support a part of the vehicle and load and which can be regulated to vary the amount of load supported by such an axle or axles and which can be deployed or lifted by the operator of the vehicle. (See also section 49-117, Idaho Code.)

(a) "Fully raised" means that the variable load suspension axle is in an elevated position preventing the tires on such axle from having any contact with the roadway.

(b) "Fully deployed" means that the variable load suspension axle is supporting a portion of the weight of the loaded vehicle as controlled by the preset pressure regulator valve.

(2) "Vehicle" means:

(a) General. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(b) Assembled vehicle or vessel. A vehicle or vessel, not including a salvage vehicle or vessel, that has been constructed using major component parts from two (2) or more vehicles or vessels or that has been repaired using new factory major component parts so that the resulting vehicle or vessel has the same appearance as a vehicle or vessel that was manufactured under a specific make and model by a manufacturer. A vehicle or vessel utilizing a kit for the entire body or a glider kit vehicle is not an assembled vehicle.

(c) Authorized emergency vehicle. Vehicles operated by any fire department or law enforcement agency of the state of Idaho or any political subdivision of the state, ambulances, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, vehicles belonging to, or operated by EMS personnel

certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, wreckers which are engaged in motor vehicle recovery operations and are blocking part or all of one (1) or more lanes of traffic, other emergency vehicles designated by the director of the Idaho state police or vehicles authorized by the Idaho transportation board and used in the enforcement of laws specified in section 40-510, Idaho Code, pertaining to vehicles of ten thousand (10,000) pounds or greater.

(ed) Commercial vehicle or commercial motor vehicle. For the purposes of chapters 3 and 9 of this title, driver's licenses and vehicle equipment, a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

- (i) Has a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds inclusive of a towed unit with a manufacturer's gross vehicle weight rating (GVWR) of more than ten thousand (10,000) pounds; or
- (ii) Has a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds; or
- (iii) Is designed to transport sixteen (16) or more people, including the driver; or
- (iv) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the hazardous material transportation act and which require the motor vehicle to be placarded under the hazardous materials regulations (49 CFR part 172, subpart F).

For the purposes of chapter 4, title 49, Idaho Code, motor vehicle registration, a vehicle or combination of vehicles of a type used or maintained for the transportation of persons for hire, compensation or profit, or the transportation of property for the owner of the vehicle, or for hire, compensation, or profit, and shall include fixed load specially constructed vehicles exceeding the limits imposed by chapter 10, title 49, Idaho Code, and including drilling rigs, construction, drilling and wrecker cranes, log jammers, log loaders, and similar vehicles which are normally operated in an overweight or oversize condition or both, but shall not include those vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code, or exempted by section 49-426, Idaho Code. A motor vehicle used in a ridesharing arrangement that has a seating capacity for not more than fifteen (15) persons, including the driver, shall not be a "commercial vehicle" under the provisions of this title relating to equipment requirements, rules of the road, or registration.

(de) Farm vehicle. A vehicle or combination of vehicles owned by a farmer or rancher, which are operated over public highways, and used exclusively to transport unprocessed agricultural, dairy or livestock products raised, owned and grown by the owner of the vehicle to market or place of storage; and shall include the transportation by the farmer or rancher of any equipment, supplies or products purchased by that farmer or rancher for his own use, and used in the farming or ranching operation or used by a farmer partly in transporting agricultural products or livestock from the farm of another farmer that were originally grown or raised on the farm, or when used partly in transporting agricultural supplies, equipment, materials or livestock to the farm of another farmer for use or consumption on the farm but not transported for hire, and shall not include vehicles of husbandry or vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code.

(ef) Foreign vehicle. Every vehicle of a type required to be registered under the provisions of this title brought into this state from another

state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.

(fg) Glider kit vehicle. Every large truck manufactured from a kit manufactured by a manufacturer of large trucks which consists of a frame, cab complete with wiring, instruments, fenders and hood and front axles and wheels. The "glider kit" is made into a complete assembly by the addition of the engine, transmission, rear axles, wheels and tires.

(gh) Motor vehicle. Every vehicle which is self-propelled, and for the purpose of titling and registration meets federal motor vehicle safety standards as defined in section 49-107, Idaho Code. Motor vehicle does not include vehicles moved solely by human power, electric personal assistive mobility devices and motorized wheelchairs or other such vehicles that are specifically exempt from titling or registration requirements under title 49, Idaho Code.

(hi) Multipurpose passenger vehicle (MPV). For the purposes of section 49-966, Idaho Code, a motor vehicle designed to carry ten (10) or fewer persons which is constructed either on a truck chassis or with special features for occasional off-road operation.

(ij) Neighborhood electric vehicle (NEV). A self-propelled, ~~electrically-powered~~ electrically powered, four-wheeled motor vehicle which is emission free and conforms to the definition and requirements for low-speed vehicles as adopted in the federal motor vehicle safety standards for low-speed vehicles under federal regulations at 49 CFR part 571. An NEV shall be titled, registered and insured according to law as provided respectively in chapters 4, 5 and 12, title 49, Idaho Code, and shall only be operated by a licensed driver. Operation of an NEV on a highway shall be allowed as provided in section 49-663, Idaho Code.

(jk) Noncommercial vehicle. For the purposes of chapter 4, title 49, Idaho Code, motor vehicle registration, a noncommercial vehicle shall not include those vehicles required to be registered under sections 49-402 and 49-402A, Idaho Code, and means all other vehicles or combinations of vehicles which are not commercial vehicles or farm vehicles, but shall include motor homes. A noncommercial vehicle shall include those vehicles having a combined gross weight not in excess of sixty thousand (60,000) pounds and not held out for hire, used for purposes related to private use and not used in the furtherance of a business or occupation for compensation or profit or for transporting goods for other than the owner.

(kl) Passenger car. For the purposes of section 49-966, Idaho Code, a motor vehicle, except a multipurpose passenger vehicle, motorcycle or trailer, designed to carry ten (10) or fewer persons.

(lm) Rebuilt salvage vehicle or vessel. Every vehicle or vessel previously determined or declared to be a salvage vehicle that has been rebuilt or repaired using like make and model parts and visually appears as a vehicle or vessel that was originally constructed under a distinctive manufacturer. This includes a salvage vehicle or vessel which is damaged to the extent that a "rebuilt salvage" brand is required to be added to the title.

~~(m) Reconstructed vehicles. Vehicles which have been reconstructed by the use of a kit designed to be used to construct an exact replica of a vehicle which was previously constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles. A glider kit vehicle is not a reconstructed vehicle.~~

(n) Replica vehicle or vessel. A vehicle or vessel made to replicate any ~~passenger car or truck~~ vehicle or vessel previously manufactured, using metal, fiberglass or other composite materials. Replica vehicles must look like the original vehicle being replicated but may use a more

modern drive train. At a minimum, replica vehicles shall meet the same federal motor vehicle safety and emission standards in effect for the year and type of vehicle being replicated.

(o) Salvage vehicle or vessel. Any vehicle or vessel for which a salvage certificate of title, salvage bill of sale or other documentation has been issued showing evidence that the vehicle or vessel has been declared salvage or which has been damaged to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor minus the salvage value makes it uneconomical to repair or rebuild. When an insurance company has paid money or has made other monetary settlement as compensation for a total loss of any vehicle or vessel, such vehicle shall be considered to be a salvage vehicle or vessel.

(p) Specially constructed vehicle or vessel. Every vehicle or vessel of a type required to be registered not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles or vessels and not materially altered from its original construction and cannot be visually identified as a vehicle or vessel produced by a particular manufacturer. This includes:

(i) A vehicle or vessel that has been structurally modified so that it does not have the same appearance as a similar vehicle or vessel from the same manufacturer; or

(ii) A vehicle or vessel that has been constructed entirely from homemade parts and materials not obtained from other vehicles or vessels; or

(iii) A vehicle or vessel that has been constructed by using major component parts from one (1) or more manufactured vehicles or vessels and cannot be identified as a specific make or model; or

(iv) A vehicle or vessel constructed by the use of a custom kit that cannot be visually identified as a specific make or model.

All specially constructed vehicles of a type required to be registered shall be certified by the owner to meet all applicable federal motor vehicle safety standards in effect at the time construction is completed, and all requirements of chapter 9, title 49, Idaho Code.

(q) Specialty off-highway vehicle. A specialty off-highway vehicle as defined in section 67-7101, Idaho Code.

(~~qr~~) Total loss vehicle. Every vehicle that is deemed to be uneconomical to repair. A total loss shall occur when an insurance company or any other person pays or makes other monetary settlement to the owner when it is deemed to be uneconomical to repair the damaged vehicle. The compensation for total loss as defined herein shall not include payments by an insurer or other person for medical care, bodily injury, vehicle rental or for anything other than the amount paid for the actual damage to the vehicle.

(3) "Vehicle identification number." (See "Identifying number," section 49-110, Idaho Code)

(4) "Vehicle salesman" means any person who, for a salary, commission or compensation of any kind, is employed either directly or indirectly, or regularly or occasionally by any dealer to sell, purchase or exchange, or to negotiate for the sale, purchase or exchange of vehicles. (See also "full-time salesman," section 49-107, Idaho Code, and "part-time salesman," section 49-117, Idaho Code)

(5) "Vessel." (See section 67-7003, Idaho Code)

(6) "Veteran." (See section 65-502, Idaho Code)

(7) "Violation" means a conviction of a misdemeanor charge involving a moving traffic violation, or an admission or judicial determination of the commission of an infraction involving a moving traffic infraction, except bicycle infractions.

SECTION 4. That Section 49-205, Idaho Code, be, and the same is hereby amended to read as follows:

49-205. DUTIES OF LOCAL OFFICERS. (1) The assessors of the various counties of the state shall be agents of the department and shall perform duties prescribed in this title. With the concurrence of the department, a county assessor may appoint one (1) or more agents to perform the duties prescribed in chapters 4 and 5 of title 49, Idaho Code. Such agent shall post a faithful performance bond in an amount and form acceptable to the department. The assessor may negotiate for reasonable reimbursement of expenses to an agent for any duties performed by the agent under terms of agreement with the county assessor.

(2) The county assessors shall receive and file in their respective offices all instruments required by chapter 5 of this title to be filed with the county assessors, ~~and shall maintain in their respective offices indices for certificates of title issued by the department which shall be kept alphabetically by the name of the owner.~~

(3) It shall be the duty of peace officers within the state of Idaho to enforce and make arrests for the violation of the provisions of this title without the necessity of procuring a warrant. It shall be the duty of authorized employees of the department to enforce compliance with the laws in accordance with section 40-511, Idaho Code.

SECTION 5. That Section 49-401B, Idaho Code, be, and the same is hereby amended to read as follows:

49-401B. APPLICATION FOR REGISTRATION -- RECEIPT FOR FEE -- RECORD OF APPLICANTS. (1) Application for the registration of a vehicle required to be registered under the provisions of section 49-401A, Idaho Code, shall be made to the assessor or the department as specified in that section, by the owner upon the appropriate form. Every application shall contain the owner's Idaho driver's license number, Idaho identification card number, ~~or~~ social security number or individual taxpayer identification number. In the case of a business, the employer tax identification number is required. Every application shall also contain the owner's true and full legal name. In the event that the owner does not possess a social security number, individual taxpayer identification number, Idaho driver's license number, or Idaho identification card number, the owner shall present written documentation sufficient to the department to determine that no social security number has been issued. In the event that a business, trust or other statutorily created entity is not required to have and does not possess an employer tax identification number, the applicant shall provide a written statement certifying that the entity does not possess an employer tax identification number. Such application must be signed by the owner and contain his residence address and mailing address, if different, and a brief description of the vehicle to be registered, including the name of the maker, the type of fuel used, and the identification number. If an applicant has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the applicant may state, ~~in the application required pursuant to this section,~~ the applicant's alternative Idaho mailing address in place of his or her residence address. Upon registration of a new vehicle, the application shall also show the date of sale by the manufacturer or dealer to the person first operating such vehicle. The application shall contain any other information as may be required by the department and shall contain a provision that allows an owner to choose to participate in the Idaho state parks passport program. The assessor shall issue to the applicant a receipt for any fee paid. Social security numbers collected shall not appear on certificates of registration, and all applications on

file shall be exempt from disclosure, except as provided in sections 49-202, 49-203 and 49-203A, Idaho Code.

(2) The assessor shall record on a form prescribed and furnished by the department, the names of all owners of vehicles residing in the county who make application for registration, together with the amounts of the fees paid by such owners.

(3) When application for registration is made by any motor carrier, the assessor or the department shall require each such applicant to execute a certification of safety compliance.

(4) Vehicles registered under the proportional registration provisions of section 49-435, Idaho Code, shall be registered by the department.

(5) Every owner of a vehicle registered by a county assessor shall give his physical domicile residence address or the business⁺ physical principal address to the assessor so that the proper county can be entered upon the registration. Failure to do so shall be unlawful. The department shall then attribute the registration, and all fees to be apportioned to the highway distribution account, to the county of residence regardless of the county in which the registration occurred. Fees imposed under the provisions of sections 40-827 and 40-1416, Idaho Code, shall be separately identified and accounted for, and paid to the highway district for which collected. Fees collected in addition to vehicle registration fees for the Idaho state parks passport program, as provided in section 49-402(12), Idaho Code, shall be separately identified and accounted for and paid to the state treasurer on a monthly basis to be deposited in the park and recreation fund as specified in section 49-402(12), Idaho Code. For the purposes of vehicle registration, a person is an actual and permanent resident of the county in which he has his principal residence or domicile. A principal residence or domicile shall not be a person's workplace, vacation, or part-time residence.

(6) A violation of the provisions of this section shall be an infraction.

SECTION 6. That Section 49-402C, Idaho Code, be, and the same is hereby amended to read as follows:

49-402C. SPECIAL LICENSE PLATE PROGRAMS -- STANDARDIZED PLATE COLOR AND DESIGN. (1) It is the intent of the legislature that special license plates issued by the department be readily recognizable as plates from the state of Idaho without losing the uniqueness for which the special plate was designed and purchased. In addition, the legislature finds that the department can operate in a more efficient, cost-effective manner by conforming special plates to a basic color and design.

(2) No special license plates and no special license plate programs in existence on or before June 30, 1998, shall be affected by the provisions of this section. On and after July 1, 1998, any new special license plate program authorized or any redesign of an existing special license plate, shall use the same red, white and blue background as the standard issue of license plates described in section 49-443, Idaho Code, except that:

- (a) The identification of county shall be omitted;
- (b) The word "Idaho" shall appear on every plate;
- (c) The inscription "Scenic Idaho" may be omitted without legislative consideration and approval; and
- (d) No slogan shall be used that infringes upon, dilutes or compromises, or could be perceived to infringe upon, dilute or compromise, the trademarks of the state of Idaho, including, but not limited to, "Idaho Potatoes®," "Grown in Idaho™," "Famous Idaho Potatoes™" or "Famous Potatoes®."

The provisions of this section shall not apply to the plate designs issued pursuant to the provisions of section 49-417, Idaho Code.

(3) Any redesign required for a special plate to conform with legislative intent and the provisions of this section may be done in a manner similar to that used to produce the original design.

(4) The special plates shall conform in all other respects with the provisions of section 49-443, Idaho Code, relating to visibility requirements, display of registration number, time period for validity of plates, and reservation of plate numbers.

(5) Unless otherwise specifically provided, no special license plates shall be issued to motor vehicles with a registered maximum gross weight in excess of twenty-six thousand (26,000) pounds, or any motor vehicle registered under section 49-434(5), Idaho Code, or section 49-435, Idaho Code.

(6) Following an introductory period of three (3) years during which the provisions of this subsection shall not apply, if, during both years of any following two (2) consecutive years, fewer than one thousand (1,000) plates are issued in each of those two (2) consecutive years, the department shall discontinue that special license plate program. ~~and no new plates shall be issued nor shall a~~Any existing plates may be renewed upon its expiration until the physical license plates must be replaced pursuant to section 49-443(2), Idaho Code. No duplicate or replacement plates will be produced if such plates are lost or damaged prior to the seven (7) year replacement. The provisions of this subsection shall apply to sections 49-416, 49-417, 49-417A, 49-417B, 49-417C, 49-418A, 49-418B, 49-418C, 49-419, 49-419A, 49-420, 49-420B, Idaho Code, and any other special license plate programs created on and after July 1, 2002.

SECTION 7. That Section 49-437, Idaho Code, be, and the same is hereby amended to read as follows:

49-437. INCREASE IN MAXIMUM GROSS WEIGHT -- FEES FOR REMAINING PORTION OF YEAR. (1) When a motor vehicle registered under section 49-434 or 49-435, Idaho Code, has once been registered and during the year of that registration increases the maximum gross weight, the higher fee due for the weight increase shall be offset by the fee already paid. The fee already paid and the fee due shall be prorated by one-twelfth (1/12) for each month already expired in the registration year period. The difference between the two (2) fees shall be the balance due for the remainder of the registration year period. If an owner changes the weight during a registration year period, the weight change shall not result in a refund of the fees already paid.

(2) If a motor vehicle is not operated on any highway during the first months of a ~~calendar year~~ registration period, the owner may at any time thereafter be registered for the remainder of the year registration period on payment of all fees, rounded to the nearest whole dollar, as provided in this chapter, less one-twelfth (1/12) of such fees for each full calendar month which has expired prior to registering, but in no event shall the minimum fee be less than five dollars (\$5.00).

SECTION 8. That Section 49-443, Idaho Code, be, and the same is hereby amended to read as follows:

49-443. LICENSE PLATES TO BE FURNISHED BY DEPARTMENT -- FORM AND CONTENTS. (1) The assessor or the department shall furnish to every owner whose vehicle is registered or licensed by that office, pursuant to sections 49-402 and 49-402A, Idaho Code, one (1) license plate for vehicles registered under the provisions of section 49-406, 49-406A or 49-408, Idaho Code, or a motorcycle, trailer, truck-tractor, or semitrailer; one (1) restricted vehicle license plate for all-terrain vehicles, utility type vehicles and motorbikes licensed pursuant to this chapter; and two (2) license plates for every other motor vehicle. If a vehicle is issued one (1) plate only, that plate shall be displayed in accordance with the provisions of section

49-428, Idaho Code. For vehicles registered under the provisions of section 49-407, Idaho Code, the applicant shall provide one (1) plate to be displayed on the rear of the vehicle.

Commencing January 1, 1992, the color and design of the plates shall be comparable to the color and design of the statehood centennial issue of license plates with blue numerals and letters on a multicolored red, white and blue background. Each license plate must bear upon its face the inscriptions "Famous Potatoes" and "Scenic Idaho." The restricted vehicle license plate for all-terrain vehicles, utility type vehicles and motorbikes shall be a white background with black numerals and letters, with "Idaho Restricted Vehicle" and the year of its expiration on its face and no other inscription. The restricted vehicle license plate shall be the same size required for the motorcycle license plate.

Every license plate shall have displayed upon it the registration number assigned to the vehicle and its owner and the name "Idaho" which may be abbreviated. The plates issued under the provisions of section 49-402(1), Idaho Code, and the required letters and numerals, including an identification of the county in which the motor vehicle to which the plates will be affixed is registered, shall be of sufficient size to be plainly readable from a distance of seventy-five (75) feet during daylight, and each license plate and registration sticker shall be treated with a fully reflectorized material according to specifications prescribed by the board.

(2) License plates shall be valid for a period of seven (7) years beginning with the date of issuance of new plates. At the end of the sixth year, the registered owner shall receive notice of the date upon which the plates will expire. ~~The department shall implement a plate number reservation program beginning prior to the 1999 plate issue and following once every seven (7) years thereafter, for a limited plate number sequence in each county that chooses to offer a reservation program. Requests for license plate number reservations shall be submitted to the county during the open reservation period established by the department. The department may charge a minimal fee as determined by the board to recover costs to the department for reservation of license plate numbers. The provisions of this subsection shall not apply to any license plates issued pursuant to the provisions of section 49-434(4), Idaho Code.~~

For specialty license plate programs discontinued pursuant to the provisions of section 49-402C, Idaho Code, a registrant with a specialty license plate currently registered under the program, may use such license plate for up to seven (7) years from the date of issuance. This provision is intended to permit the use of the specialty plate by the registrant regardless of the number of persons who purchase the specialty plate. The registrant shall be required to pay the special plate program fees provided for specialty plates pursuant to this chapter. Such fees shall be deposited into the state highway account.

(3) If a license plate number has expired as provided in subsection (2) of this section and ~~the number was not reserved, or if the vehicle registration is not renewed within sixty (60) days of its expiration, the plate number shall be available for use by another registrant. To obtain a specific number in the recycled license plate number file, the owner of a registered vehicle shall pay a one (1) time fee as determined by rule of the board may contact the county regarding availability.~~

The provisions of this subsection shall apply only to vehicles registered under the provisions of section 49-402(1), Idaho Code, and section 49-434(1), Idaho Code, as it applies to noncommercial vehicles.

(4) License plates issued for vehicles required to be registered in accordance with the provisions of sections 49-402 and 49-402A, Idaho Code, shall be issued color coded red, white or blue registration validation stickers showing the year of registration. Each registration validation sticker shall bear a number from 1 through 12, which number shall correspond

to the month of the calendar year in which the registration of the vehicle expires and shall be affixed to the lower right-hand corner of the plates within the outlined rectangular area.

(5) License plates for utility trailers registered under the provisions of section 49-402A, Idaho Code, that are issued for five (5) or ten (10) years and license plates for rental utility trailers registered under the provisions of section 49-434, Idaho Code, that are issued for up to five (5) years, shall use the design in effect on the date of manufacture. If a design change occurs, plates from the effective date of the design change shall be manufactured using the new design. Unexpired plates need not be reissued to conform to a design change.

(6) For license plates that are lost, stolen, mutilated, or illegible, the owner shall apply for a duplicate or substitute. The assessor shall also furnish for each registration, and to validate the license plate, a pressure-sensitive, ~~uniquely-numbered~~ uniquely numbered, color coded red, white or blue registration sticker, except for trailers and semitrailers registered under the nonexpiring provisions in section 49-434, Idaho Code. License plates issued for state, county and city motor vehicles shall be permanent valid for seven (7) years pursuant to subsection (2) of this section and remain on the vehicle for which issued from year to year, and need no renewal or validation sticker.

(7) Whenever a vehicle is completely destroyed by fire or accident and the operator submits satisfactory proof of that destruction to the department or appropriate assessor's office, ~~the~~ or the owner wishes to transfer the remaining registration use increment and fees shall be transferred to the replacement vehicle for a service transfer fee of five dollars (\$5.00), which fee shall be retained by the registering authority. None of the original fees shall be subject to refund.

(8) The department shall furnish to every owner whose vehicle is registered under sections 49-434 and 49-435, Idaho Code, a pressure-sensitive, ~~uniquely-numbered~~ uniquely numbered, color coded red, white or blue registration sticker to validate the license plate, provided however, the provisions of this subsection shall not apply to trailers and semitrailers registered under the provisions of section 49-434(4), Idaho Code.

(9) The board shall have authority to require the return to the department of all license plates and registration stickers upon termination of the lawful use of them by the owner.

(10) The board may promulgate such rules as are necessary to implement the provisions of this section.

SECTION 9. That Section 49-443B, Idaho Code, be, and the same is hereby amended to read as follows:

49-443B. LICENSE PLATES FOR STATE VEHICLES AND VEHICLES BELONGING TO TAXING DISTRICTS. License plates for state vehicles and vehicles belonging to taxing districts shall be permanent valid for a period of seven (7) years pursuant to section 49-443(2), Idaho Code, and shall remain on the vehicle to which it is issued until transferred to another vehicle or until it is ~~cancelled~~ canceled by the department. The department shall be reimbursed by state agencies and the taxing districts for the cost of providing license plates. The department may develop rules and regulations to administer this license plate program.

SECTION 10. That Section 49-502, Idaho Code, be, and the same is hereby amended to read as follows:

49-502. DELIVERY OF CERTIFICATE OF TITLE UPON SALE OR DISPOSITION -- REASSIGNMENT BY DEALERS. (1) No person shall sell or otherwise dispose of a vehicle without delivery to the purchaser or transferee a certificate of ti-

title with an assignment as necessary to show title in the purchaser or transferee except as provided for in subsection (2) of this section.

(2) The owner shown on the records of the department of any vehicle that is at least ten (10) years old or over sixteen thousand (16,000) pounds gross vehicle weight or has no odometer device, or of any vessel whose certificate of title has become lost, mutilated or illegible, may dispose of such vehicle or vessel by delivering to the purchaser or transferee a completed application for duplicate title, together with an assignment as necessary to show title in the purchaser or transferee. To obtain a certificate of title, the purchaser or transferee shall pay the fees pursuant to section 49-202(2)(b) and (e), Idaho Code.

(3) No person shall purchase or otherwise acquire or bring into the state a vehicle except for temporary use as provided by section 49-432, Idaho Code, unless he shall obtain a certificate of title in his name in accordance with the provisions of this chapter.

(4) Any dealer holding a current Idaho dealer license plates may, in lieu of having a certificate of title issued in his name, reassign either any existing certificate of title issued in this state or any application of duplicate certificate of title completed pursuant to subsection (2) of this section.

SECTION 11. That Section 49-504, Idaho Code, be, and the same is hereby amended to read as follows:

49-504. APPLICATIONS TO DEPARTMENT FOR CERTIFICATES -- PROCEDURE -- IDENTIFICATION NUMBERS. (1) Application for a certificate of title shall be made upon a form furnished by the department and shall contain the owner's Idaho driver's license number, Idaho identification card number or social security number or individual taxpayer identification number. In the case of a business, the employer tax identification number is required. Every application shall also contain the owner's true and full legal name. In the event that the owner does not possess a social security number, Idaho driver's license number, ~~or~~ Idaho identification card number or individual taxpayer identification number, the owner shall present written documentation sufficient to the department to determine that no social security number has been issued. In the event that a business, trust, or other statutorily created entity is not required to have and does not possess an employer tax identification number, the applicant shall provide a written statement certifying that the entity does not possess an employer tax identification number. The form must contain the owner's physical domicile address or in the case of a business, trust or other statutorily created entity, such entity's physical address and any mailing address if different from the physical address. If the owner has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the owner may state, in the application required pursuant to this section, the applicant's alternative Idaho mailing address in place of his or her physical domicile address. Such application must be signed by the owner and contain a full description of the vehicle including the make, identification numbers, and the odometer reading at the time of sale or transfer, and whether the vehicle is new or used, together with a statement of the applicant's title and of any liens or encumbrances upon the vehicle, and the name and address of the person to whom the certificate of title shall be delivered, and any other information as the department may require. The application shall be filed with the department, and if a certificate of title has previously been issued for that vehicle in this state, shall be accompanied by the certificate of title duly assigned, unless otherwise provided for in this chapter. The department may promulgate rules to provide for exceptions to the odometer requirement. Social security numbers collected shall not appear on certifi-

cates of title and all applications on file shall be exempt from disclosure, except as provided in sections 49-202, 49-203 and 49-203A, Idaho Code.

(2) If a the current certificate of title has was not previously been issued for the vehicle in this state, the application, unless otherwise provided for in this chapter, shall be accompanied by a ~~proper bill of sale or a duly certified copy thereof, or by a~~ certificate of title, bill of sale or other evidence of ownership required by the law of any other state jurisdiction from which the vehicle was brought into this state, and a vehicle identification number inspection completed by any city, county or state peace officer or other special agent authorized by the department.

(3) In the case of a new vehicle being titled for the first time, no certificate of title or registration shall be issued unless the application is indorsed by a franchised new vehicle dealer licensed to sell a new vehicle. Each application shall be accompanied by a manufacturer's certificate of origin or manufacturer's statement of origin executed by the manufacturer and delivered to his agent or his franchised vehicle dealer. The certificate or statement of origin shall be in a form prescribed by the board and shall contain the year of manufacture or the model year of the vehicle, the manufacturer's vehicle identification number, the name of the manufacturer, the number of cylinders, a general description of the body, if any, and the type or model. Upon sale of a new vehicle, the manufacturer, his agent or franchised dealer shall execute and deliver to the purchaser an assignment of the certificate or statement, together with any lien or encumbrance to which the vehicle is subject.

(4) The department shall retain the evidence of title presented by the applicant and on which the certificate of title is issued. The department shall maintain an identification numbers index of registered vehicles, and upon receiving an application for a certificate of title, shall first check the identification number shown in the application against the index. The department, when satisfied that the applicant is the owner of the vehicle and that the application is in proper form, shall issue in the name of the owner of the vehicle a certificate of title bearing a title number, the date issued and a description of the vehicle as determined by the department, together with a statement of the owner's title and of all liens or encumbrances upon the vehicle, and whether possession is held by the owner under a lease, contract or conditional sale, or other like agreement.

(5) In all cases of transfer of vehicles the application for certificates of title shall be filed within thirty (30) calendar days after the delivery of the vehicles. Licensed dealers need not apply for certificate of title for vehicles in stock or when they are acquired for stock purposes.

(6) In the case of the sale of a vehicle by a dealer to a general purchaser or user, the certificate of title shall be obtained in the name of the purchaser by the dealer upon application signed by the purchaser. If a lien is to be recorded, the title documentation as required in this section shall be submitted to the department by the dealer or the lienholder upon application signed by the purchaser. A copy of this application shall be given to the purchaser to be used as a seventy-two (72) hour temporary permit. In all other cases the certificates shall be obtained by the purchaser and the certificate of title properly assigned and dated by the seller, or the seller's bill of sale shall serve as a seventy-two (72) hour permit. The seventy-two (72) hour time period for temporary permits shall be calculated excluding weekend days and legal holidays observed by the state of Idaho. This temporary permit allows operation of any noncommercial vehicle or unladen commercial vehicle or vehicle combination without license plates for the period of time specified in the permit. A laden commercial vehicle or vehicle combination may also operate without license plates for the period of time specified in the temporary permit provided that the owner or operator has also obtained a permit issued under the provisions of section 49-432, Idaho Code.

(7) If the vehicle has no identification number, then the department shall designate an identification number for that vehicle at the time of issuance of the certificate of title. The identification number shall be permanently affixed to or indented upon the frame of the vehicle and legibly maintained by the owner at all times while a certificate of title to the vehicle shall be issued and outstanding.

SECTION 12. That Section 49-504A, Idaho Code, be, and the same is hereby amended to read as follows:

49-504A. PENALTY FOR LATE FILING -- TRANSFER OF CERTIFICATE OF TITLE -- DISPOSITION OF MONEYS. (1) When a transfer of ownership arises, a penalty of twenty dollars (\$20.00) for presentation of a previously issued certificate of title shall be assessed against the new owner when the presentation for transfer of title or creation of an electronic ownership record in the new owner's name occurs more than thirty (30) days after the vehicle was transferred. All fines collected under the provisions of this section shall be distributed to the county current expense fund.

(2) When a licensed Idaho vehicle dealer, or entity exempted from licensing as defined in section 49-105(1), Idaho Code, either takes possession of a vehicle for the purpose of resale or transfers ownership of that vehicle, no penalty shall be assessed.

(3) When a person acquires ownership of a vehicle in another state, the thirty (30) day filing requirement shall begin upon initial entry of the vehicle into the state of Idaho.

(4) Vehicles acquired prior to July 1, 1989, and all-terrain vehicles, motorbikes and snowmobiles acquired prior to January 1, 1991, are specifically exempt from this penalty.

SECTION 13. That Section 49-511, Idaho Code, be, and the same is hereby amended to read as follows:

49-511. CANCELLATION OR DISCHARGE OF LIEN OR ENCUMBRANCE. When a lien or encumbrance is ~~canceled~~ cancelled or discharged, the lienholder shall provide notice of such cancellation or discharge to the department within thirty (30) days. If the lienholder was holding the paper certificate of title, he shall note the cancellation or discharge on the certificate of title in the space provided, over his signature, or by some other legal document, discharging the encumbrance, and shall deliver the paper certificate of title to the owner within thirty (30) days of receipt of payoff of the encumbrance. If the lienholder was holding an electronic title, he shall send the department an electronic transaction that directs the department to provide a paper title to the owner free of the lienholder's lien within thirty (30) days of receipt of payoff of the encumbrance.

SECTION 14. That Section 49-523, Idaho Code, be, and the same is hereby amended to read as follows:

49-523. PROCEDURE WHEN DEPARTMENT UNSATISFIED AS TO OWNERSHIP OR SECURITY INTERESTS -- TEMPORARY REGISTRATION PROCEDURE. (1) If the department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, the department may register the vehicle, but shall either:

(a) Withhold issuance of a certificate of ownership until the applicant presents documents reasonably sufficient to satisfy the department as to the applicant's ownership of the vehicle and that there are no undisclosed security interests in it; or

(b) As a condition of issuing a certificate of ownership, require the applicant to file with the department all documents held as to

the applicant's ownership of the vehicle, together with a bond in the form prescribed by the department and executed by the applicant, or a deposit of cash in a like amount. The bond shall be in an amount equal to one and one-half (1 1/2) times the value of the vehicle, as determined by the department, and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of ownership of the vehicle, or on account of any defect in or disclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, or any cash deposit, shall be returned at the end of three (3) years, or prior to that time if the vehicle is no longer registered in this state and the current valid certificate of ownership is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

(c) As to a vehicle at least ten (10) model years old ~~or more since~~ manufacture, an applicant who is a resident of the state of Idaho may file with the department, before its authorized representative, a verified statement of facts setting out in detail the manner in which the applicant came into possession of the vehicle, the establishment of ownership, and a summary of the applicant's attempts to contact any prior owners of the vehicle. Upon receipt by the department of the verified statement and all documentation relating to the applicant's possession of the vehicle, and completion of an inspection of the vehicle identification number by an authorized representative of the department, the applicant shall execute a document in the form provided by the department releasing it of any and all damages that may be suffered by the applicant, along with warranties that the applicant will pay any and all damages suffered by any person or entity as to the issuance of a title for that vehicle by the department. The department shall then issue a certificate of title to the applicant in a form set out by this section. The certificate of title shall include the statement, "ISSUED ON STATEMENT OF APPLICANT", in permanent letters upon its face. The title issued pursuant to this subsection shall be presumed to indicate legal ownership of the vehicle at the end of the three (3) year period from the date of issue of that title, provided the vehicle is still registered in the state of Idaho, and there are no actions or claims pending against the applicant which place legal ownership in question. The department and the state of Idaho shall be immune as to any damages suffered by any person or entity as a result of the issuance of a certificate of title as provided by this subsection.

(2) Every dealer desiring the privilege of issuing temporary registration permits for the operation of vehicles shall make application to the department. If the privilege is granted, the dealer will receive a series of permits, consecutively numbered by the department, secured by the dealer at a fee of nine dollars (\$9.00) for each permit. A permit subsequently issued by a dealer to a purchaser shall be valid for a period not to exceed thirty (30) days.

The dealer shall issue temporary registration permits in numerical sequence, one (1) only for each vehicle sold to a bona fide purchaser. Each permit, and the attached stub, shall be completed in duplicate, in ink or by typewriter at the time of issuance. The expiration date on the original permit shall be filled in by rubber stamp or broad-tipped marking pen, and the print shall be at least three-fourths (3/4) inch high and one-eighth (1/8) inch wide. The original permit shall be displayed in the rear window of the

vehicle for which it is issued, except when issued for a convertible, station wagon, motorcycle, or other vehicle for which this would not be practical. In these exceptional cases, the permit should be conspicuously displayed in a place where the number of the permit and the expiration date may be easily read and where protected from exposure to weather conditions which would render it illegible.

(3) The dealer shall keep a written record of every temporary registration permit issued. This record shall include the name and address of the person or firm to whom the permit is issued, a description of the vehicle for which it is issued, including year, make, model, identification number, and the date of issue. This record shall list all permits in numerical sequence and shall be open to inspection by any peace officer or designated employee of the department.

(4) The fees collected from dealers by the department under the provisions of this section shall be transmitted by the department to the state treasurer for deposit in the highway distribution account.

(5) Upon application for title and for registration of a vehicle for which temporary registration has been issued under this section, the county assessor shall collect and fees shall be deemed due from the date of issuance of the temporary registration permit rather than from the date of application for title or registration.

(6) The department or a county assessor may issue temporary vehicle registration permits in an emergency situation. The fee for a temporary registration shall be nine dollars (\$9.00) and shall be valid for a period of thirty (30) days. The temporary fees collected by the department shall be transmitted to the state treasurer for deposit in the highway distribution account. Temporary fees collected by an assessor shall be distributed as follows: five dollars (\$5.00) shall be deposited in the county current expense fund and four dollars (\$4.00) shall be transmitted to the department for deposit through the state treasurer in the highway distribution account.

SECTION 15. That Section 49-524, Idaho Code, be, and the same is hereby amended to read as follows:

49-524. SALVAGE CERTIFICATE OF TITLE OR ELECTRONIC FILE TO REPLACE CERTIFICATE OF TITLE OR CERTIFICATE OF ORIGIN ON VEHICLES. (1) Every person acquiring a vehicle that has been determined to be a salvage vehicle shall obtain a salvage certificate of title on that vehicle.

(2) The salvage certificate of title shall replace the manufacturer's certificate of origin, manufacturer's statement of origin, certificate of title or other comparable ownership document and shall indicate ownership only; it shall not be valid for registration purposes.

(3) A salvage certificate of title shall be issued by the department or under the direction of the department and shall be on a form or electronic file as prescribed by the department. The form shall provide for assignments of the salvage certificate of title.

(4) The fee for a salvage certificate of title or electronic filing of a salvage certificate of title shall be in accordance with the provisions of section 49-202(2)(b), Idaho Code. The fee shall be deposited in the state highway account.

(5) Every insurer making payment for a vehicle that has been determined to be a salvage vehicle shall, within thirty (30) days from receipt of the properly released manufacturer's certificate of origin, manufacturer's statement of origin, certificate of title or other comparable ownership document, surrender such document to the department, along with an application for salvage certificate of title, the salvage certificate of title fee and other documents as required by the department for processing. The department shall issue a salvage certificate of title to the applicant if all requirements have been satisfied.

(6) If a salvage pool receives a manufacturer's certificate of origin, manufacturer's statement of origin, certificate of title or other comparable ownership document for a vehicle that has been determined to be a salvage vehicle, the salvage pool shall, within thirty (30) days and upon receipt of the properly released ownership document, surrender such document to the department, along with an application for salvage certificate of title, the salvage certificate of title fee and other documents as required by the department for processing. The department shall issue a salvage certificate of title to the applicant if all requirements have been satisfied.

(7) If an insurer has made payment for a salvage vehicle and the insurer or a salvage pool is unable to obtain a properly released manufacturer's certificate of origin, manufacturer's statement of origin, certificate of title or other comparable ownership document for the salvage vehicle within thirty (30) days after the acceptance by the owner of an amount in settlement of a total loss, then the insurer or salvage pool may submit an application for salvage certificate of title to the department without having first obtained one (1) of the aforementioned ownership documents. In place of one (1) of the aforementioned ownership documents, the insurer or the salvage pool shall submit to the department the following: a sworn statement that it made at least two (2) written attempts to obtain from the owner the properly released manufacturer's certificate of origin, manufacturer's statement of origin, certificate of title or other comparable ownership document by sending notice to the owner at the owner's address of record with the department, together with a copy of each such written attempt. Additionally, the insurer or salvage pool shall include proper evidence of the satisfaction or discharge of any lien or encumbrance properly noted upon the certificate of title or upon the electronic records of the department, an application for salvage certificate of title, the salvage certificate of title fee, indemnifying affidavit and other documents as required by the department for processing. The department shall issue a salvage certificate of title if all requirements have been satisfied.

(8) It is a misdemeanor, punishable by up to six (6) months in jail, a fine of one thousand dollars (\$1,000) or both, if the owner of a retained salvage vehicle fails to surrender the title and be issued a salvage certificate of title, or to sell the vehicle and not tell the buyer that the vehicle is totaled.

(9) If an insurer has allowed the owner to retain ownership of the salvage vehicle, the owner must surrender the certificate of title for such vehicle to the department not later than thirty (30) days from the date that the claim was satisfied. The insurer must notify the department of a total loss payoff within thirty (30) days. The department shall issue a salvage certificate of title to the owner prior to any sale or disposition of the salvage vehicle.

(10) If an insurer acquires the manufacturer's certificate of origin, manufacturer's statement of origin, certificate of title or other comparable ownership document for a vehicle in a settlement of a theft claim, the insurer shall immediately, upon receipt of the properly released ownership document, surrender such document to the department, along with an application for salvage certificate of title in the name of the insurer, the salvage certificate of title fee and other documents as required by the department for processing.

(11) If an insurer has acquired a vehicle in a settlement of a theft claim, has made application to and has been issued a new salvage certificate of title in the name of the insurer and the vehicle is subsequently recovered and is not damaged to the extent that it is a salvage vehicle, the insurer may complete an affidavit indemnifying the department stating the facts of acquisition and disposition of the vehicle in a form prescribed by the department and deliver the salvage certificate of title of ownership, affidavit and any other documents required by the department to the transferee

at the time of delivery of the vehicle. A When these documents are submitted with an application for title, the subsequent title for the vehicle will not be issued with the brand "rebuilt salvage" based on the theft incident, but a notation of "theft recovery" shall be made on the title certificate and title record.

(12) Any person acquiring ownership of a salvage vehicle purchased in a state or jurisdiction that does not require surrender of the certificate of title or comparable ownership document shall, within thirty (30) days following delivery of the certificate of title or ownership document, surrender such title or document to the department and apply for a salvage certificate of title.

(13) An owner of a salvage vehicle who sells or transfers said vehicle shall provide a properly executed assignment of the salvage certificate of ownership to the transferee.

(14) A purchaser of a salvage vehicle shall not possess or retain a salvage vehicle without a salvage certificate of title. The salvage vehicle purchaser shall display the salvage certificate of title upon the request of any peace officer or agent of the department.

SECTION 16. That Section 49-525, Idaho Code, be, and the same is hereby amended to read as follows:

49-525. SALVAGE-CERTIFIED VEHICLE -- BRANDED CERTIFICATE OF TITLE. (1) The department shall issue a branded certificate of title on any vehicle for which a salvage certificate of title, salvage bill of sale or other documentation showing evidence that the vehicle has been declared salvage has been issued by this or any other state, provided, if documentation of salvage certification has been received from another state, the requirements specified in section 49-524, Idaho Code, shall be applied to that vehicle.

(2) If an otherwise correct application is made for a certificate of title on any salvage vehicle, the department shall issue a branded certificate of title as a "rebuilt salvage vehicle" if the application for a certificate of title is supported by a salvage vehicle statement completed by the owner which states:

(a) That the owner personally rebuilt or repaired the vehicle or personally supervised its rebuilding or repairing and includes a description of work done to restore the vehicle to the operating condition that existed prior to the event which caused the salvage certificate of title to be issued;

(b) That the identification numbers of the restored vehicle and its parts have not, to the knowledge of the owner, been removed, destroyed, falsified, altered or defaced;

(c) That the salvage certificate of title document or out-of-state title certificate attached to the application has not to the knowledge of the owner been forged, falsified or altered; and

(d) That all information contained on the application and its attachments is true and correct.

(3) Each branded certificate of title or other ownership document received from another jurisdiction or authorized ownership document-issuing entity shall have its brand carried forward to all subsequent certificates of title issued in this state.

(4) Every brand retrieved from the national motor vehicle title information system shall be carried forward to all subsequent titles issued by this state.

(5) The department may promulgate rules as necessary to implement the provisions of sections 49-524 and 49-525, Idaho Code.

SECTION 17. That Section 49-811, Idaho Code, be, and the same is hereby amended to read as follows:

49-811. USE OF OPTICAL STROBE LIGHT DEVICES. (1) As used in this section "optical strobe light device" shall mean a strobe light device which emits an optical signal at a specific frequency to a traffic control signal enabling police or emergency vehicles to obtain the right-of-way at intersections or enabling transportation department, city, county or highway district maintenance vehicles to perform maintenance tests on traffic control signals.

(2) A person shall be guilty of a misdemeanor if the person uses an optical strobe light device on the highways of this state unless the person is operating or riding in an authorized emergency vehicle, as defined in section 49-123(2)(b), Idaho Code, or is operating or riding in a transportation department, city, county or highway district maintenance vehicle and the person is on official emergency duty while operating or riding in the vehicle.

(3) A person found guilty of violating subsection (2) of this section shall be sentenced by imprisonment of not greater than six (6) months, by a fine not in excess of one thousand dollars (\$1,000), or by both such fine and imprisonment.

SECTION 18. That Section 49-948, Idaho Code, be, and the same is hereby amended to read as follows:

49-948. RESTRICTIONS AS TO TIRE EQUIPMENT. (1) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one (1) inch thick above the edge of the flange of the entire periphery.

(2) No person shall operate or move on any highway any motor vehicle, trailer, or semitrailer having any metal tire in contact with the highway.

(3) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat, spike, or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except as allowed herein. It shall be permissible to use farm machinery with tires having protuberances which will not injure the highway, and it shall be permissible to use tire chains. Tires with built-in lugs of tungsten carbide or other suitable material, hereinafter called studs, may be used upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid, that will not unduly damage the highway. Motor vehicles, trailers and semitrailers with tires having built-in studs are prohibited on public highways between the dates of May 1 and September 30, annually, except as provided in paragraphs (a), (b) and (c) of this subsection:

(a) Fire pumper/tanker trucks and ladder trucks belonging to fire departments and firefighting agencies are exempt from the prohibited dates.

(b) A vehicle may be equipped year-round with tires that have retractable studs if the studs retract pneumatically or mechanically to at or below the wear bar of the tire when not in use and the retractable studs protrude beyond the wear bar of the tire only between October 1 and April 30. Retractable studs may be made of metal or other material and are not subject to the stud weight requirements of subsection (4) of this section.

(c) Special exemptions from the prohibited dates may be granted by the Idaho transportation board if it is found by the board that enhancements to public safety outweigh the increased pavement wear.

(4) Commercial tire retailers shall not sell studded tires with studs exceeding the following weight and protrusion limitations after July 1, 2005. Commercial tire retailers and tire shops shall not manually install

studs exceeding the following weight and protrusion limitations after July 1, 2005.

(a) Studs shall not protrude more than six-hundredths (.06) of an inch from the surface of the tire tread when originally installed.

(b) Stud size shall be as recommended by the manufacturer of the tire for the type and size of the tire.

(c) Studs shall individually weigh no more than one and one-half (1.5) grams if the stud is size 14 or less.

(d) Studs shall individually weigh no more than two and three-tenths (2.3) grams if the stud size is 15 or 16.

(e) Studs shall individually weigh no more than three (3) grams if the stud size is 17 or larger.

(5) If the Idaho transportation department determines, at any time, that Lookout Pass or Fourth of July Pass on interstate 90 or Lolo Pass on state highway 12 is of an unsafe condition so as to require chains, as defined in section 49-104, Idaho Code, in addition to pneumatic tires, the Idaho transportation department may establish requirements for the use of chains on all commercial vehicles as defined in section 49-123(2) (ed) (i) and (ii), Idaho Code, traveling on interstate 90 or state highway 12. If the Idaho transportation department establishes that chains are so required, the Idaho transportation department shall:

(a) Provide multiple advance notices of the chain requirement;

(b) Provide adequate opportunities for pull out;

(c) Provide notification at a point at which the commercial vehicle can safely pull out of the normal flow of traffic, prior to the point at which chains are required; and

(d) In no case post requirements for chains on bare pavement.

(6) Provided that the conditions in subsection (5) of this section are met, the chain requirement shall be met by chaining a minimum of one (1) tire on each side of:

(a) One (1) drive axle, regardless of the number of drive axles; and

(b) One (1) axle at or near the rear of each towed vehicle. Such axle shall not include a variable load suspension axle or an axle of a converter dolly.

(7) Chains as required in subsection (6) (a) and (b) of this section mean "chains" as defined in section 49-104, Idaho Code. Any other traction device differing from chains in construction, material or design but capable of providing traction equal to or exceeding that of chains under similar conditions may be used.

(8) The Idaho transportation department shall place and maintain signs and other traffic control devices on the interstate and state highway passes as designated in subsection (5) of this section that indicate the chain requirements under subsection (6) of this section.

(9) Exempt from the chaining requirements provided for in subsections (5) and (6) of this section are:

(a) Motor vehicles operated by the Idaho transportation department when used in the maintenance of the interstate or state highway system; and

(b) The following:

(i) Motor vehicles employed solely in transporting school children and teachers to or from school or to or from approved school activities, when the motor vehicle is either:

1. Wholly owned and operated by such school; or

2. Leased or contracted by such school and the motor vehicle is not used in furtherance of any other commercial enterprise;

(ii) Motor vehicles controlled and operated by any farmer when used in the transportation of the farmer's farm equipment or in the transportation of supplies to the farmer's farm;

- (iii) The transportation of agricultural products including fresh fruits and vegetables, livestock, livestock feed or manure at any time of the year;
- (iv) Motor propelled vehicles for the sole purpose of carrying United States mail or property belonging to the United States;
- (v) Motor carriers transporting products of the forest at any time of the year, including chip trucks;
- (vi) Motor carriers transporting products of the mine including sand, gravel and aggregates thereof, excepting petroleum products; and
- (vii) Vehicles properly equipped, designed and customarily used for the transportation of disabled or abandoned vehicles by means of a crane, hoist, tow bar, dolly or roll bed, commonly known as a "wrecker truck" or "tow truck."

SECTION 19. That Section 49-1818, Idaho Code, be, and the same is hereby amended to read as follows:

49-1818. ABANDONED VEHICLE TRUST ACCOUNT -- APPROPRIATION AND USE. (1) An account is established, to be known and designated as the abandoned vehicle trust account. There shall be set aside, paid into and credited to the account, moneys remaining from any sale of an abandoned vehicle or any vehicle removed under extraordinary circumstances after satisfaction of all possessory liens and costs of conducting the sale, and the fee authorized under section 31-3201F, Idaho Code, collected by the district courts.

(2) ~~Excess proceeds from abandoned vehicle sales~~ Moneys deposited in the abandoned vehicle trust account are hereby continuously appropriated to the department for the purposes of satisfying allowable claims and reimbursing the costs of administering the provisions of this chapter.

(3) Any person claiming an interest in the vehicle may file a claim with the department for any portion of the excess proceeds from an abandoned vehicle sale which were forwarded to the department. Upon determination of the department that the claimant is entitled to some amount, the department shall pay an amount which in no case shall exceed the amount forwarded to the department in connection with the sale of the vehicle. The department shall not honor any claim filed more than two (2) years after the sale.

(4) Each fee collected by the district courts pursuant to section 31-3201F, Idaho Code, shall be distributed as follows to the:

- (a) Law enforcement agency that directed the tow of the vehicle involved in the infraction.....\$50.00
 - (b) Tow company that towed the vehicle involved in the infraction.....\$50.00
 - (c) Department.....\$50.00
- Fees shall be distributed to law enforcement agencies and tow companies on a monthly basis. All fees distributed to the department shall be deposited in the state highway account.

SECTION 20. That Section 67-7040, Idaho Code, be, and the same is hereby amended to read as follows:

67-7040. APPLICATION TO CERTAIN VESSELS. (1) The provisions of the vessel titling act shall apply to every 2000 and newer model year vessel upon transfer of ownership, and optionally to all other vessels of a model year prior to 2000, effective on and after January 1, 2000, even though vessels need not be registered under the provisions of chapter 4, title 49, Idaho Code. Vessels shall be issued a certificate of registration as provided in section 67-7008, Idaho Code.

(2) The provisions of the vessel titling act shall apply exclusively to vessels with a permanently attached mode of propulsion, such as: an inboard motor, sail, personal watercraft, or other propelling machinery, and all vessels over twelve (12) feet regardless of mode of propulsion, except: ~~rowboats, driftboats, canoes, kayaks, inflatable vessels, rafts, barges, nonmotorized paddle vessels, sailboards, tenders, seaplanes, documented vessels, and vessels owned by the United States or a foreign state or political subdivision.~~

(3) Once titled, the vessel remains a titled vessel, and is subject to the requirements of chapter 5, title 49, Idaho Code.

SECTION 21. That Section 67-7101, Idaho Code, be, and the same is hereby amended to read as follows:

67-7101. DEFINITIONS. In this chapter:

(1) "All-terrain vehicle" or "ATV" means any recreational motor vehicle designed for or capable of traveling off developed roadways and highways with three (3) or more tires and fifty (50) inches or less in width, having a wheelbase of sixty-one (61) inches or less, has handlebar steering and a seat designed to be straddled by the operator.

(2) "Board" means the park and recreation board created under authority of section 67-4221, Idaho Code.

(3) "Bona fide snowmobile program" means services or facilities as approved by the department that will benefit snowmobilers such as snowmobile trail grooming, plowing and maintaining snowmobile parking areas and facilities, and trail signing.

(4) "Dealer" means any person who engages in the retail sales of or rental of snowmobiles, motorbikes, utility type vehicles or all-terrain vehicles.

(5) "Department" means the Idaho department of parks and recreation.

(6) "Designated parking area" means an area located, constructed, maintained, and signed with the approval of the land manager or owner.

(7) "Director" means the director of the department of parks and recreation.

(8) "Highway." (See section 40-109, Idaho Code, but excepting public roadway as defined in this section)

(9) "Motorbike" means any self-propelled two (2) wheeled motorcycle or motor-driven cycle, excluding tractor, designed for or capable of traveling off developed roadways and highways and also referred to as trailbikes, enduro bikes, trials bikes, motocross bikes or dual purpose motorcycles.

(10) "Off-highway vehicle" means an all-terrain vehicle, motorbike, specialty off-highway vehicle or utility type vehicle as defined in this section.

(11) "Operator" means any person who is in physical control of a motorbike, all-terrain vehicle, utility type vehicle, specialty off-highway vehicle or snowmobile.

(12) "Owner" means every person holding record title to a motorbike, all-terrain vehicle, utility type vehicle, specialty off-highway vehicle or snowmobile and entitled to the use or possession thereof, other than a lienholder or other person having a security interest only.

(13) "Person" means an individual, partnership, association, corporation, or any other body or group of persons, whether incorporated or not, and regardless of the degree of formal organization.

(14) "Public roadway" means all portions of any highway which are controlled by an authority other than the Idaho transportation department.

(15) "Snowmobile" means any self-propelled vehicle under one thousand (1,000) pounds unladen gross weight, designed primarily for travel on snow or ice or over natural terrain, which may be steered by tracks, skis, or runners.

(16) "Specialty off-highway vehicle" means any vehicle manufactured, designed or constructed exclusively for off-highway operation that does not fit the definition of an all-terrain vehicle, utility type vehicle or motor-bike as defined in this section. The vehicle classification provided for in this subsection shall become effective on January 1, 2010.

(17) "Utility type vehicle" or "UTV" means any recreational motor vehicle other than an ATV, motorbike or snowmobile as defined in this section, designed for and capable of travel over designated roads, traveling on four (4) or more tires, maximum width less than seventy-four (74) inches, maximum weight less than two thousand (2,000) pounds, and having a wheelbase of one hundred ten (110) inches or less. A utility type vehicle must have a minimum width of fifty (50) inches, a minimum weight of at least nine hundred (900) pounds or a wheelbase of over sixty-one (61) inches. Utility type vehicle does not include golf carts, vehicles specially designed to carry a disabled person, implements of husbandry as defined in section 49-110(2), Idaho Code, or vehicles otherwise registered under title 49, Idaho Code. A "utility type vehicle" or "UTV" also means a recreational off-highway vehicle or ROV.

(18) "Vendor" means any entity authorized by the department to sell recreational registrations.

(19) "Winter recreational parking locations" means designated parking areas established and maintained with funds acquired from the cross-country skiing account.

Approved March 6, 2014

CHAPTER 39
(H.B. No. 431)

AN ACT

RELATING TO DOMESTIC CERVIDAE; AMENDING CHAPTER 37, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-3704A, IDAHO CODE, TO PROVIDE FOR THE TESTING AND EXAMINATION FOR CHRONIC WASTING DISEASE OF THE BRAIN TISSUE OF CERTAIN DOMESTIC CERVIDAE, TO PROVIDE EXCEPTIONS AND TO PROVIDE THAT ONE HUNDRED PERCENT OF BRAIN TISSUE SAMPLES MAY STILL BE SUBMITTED TO MAINTAIN EXPORT STATUS; AMENDING SECTION 25-3705, IDAHO CODE, TO PROVIDE FOR CERVIDAE RANCHES, TO PROVIDE FOR INVENTORY AND FACILITY INSPECTION OF FARMS AND RANCHES AND TO PROVIDE THAT CERTAIN FACILITIES SHALL BE INSPECTED PURSUANT TO FEDERAL RULES; AMENDING SECTION 25-3708, IDAHO CODE, TO REVISE FEE PROVISIONS, TO PROVIDE FOR APPLICABILITY OF CERTAIN FEE PROVISIONS, TO PROVIDE FOR FEES FOR DOMESTIC CERVIDAE THAT ARE IMPORTED, EXPORTED AND TRANSFERRED, TO PROVIDE FOR THE PAYMENT OF FEES, TO PROVIDE FOR AN EXEMPTION FROM FEES, TO PROVIDE CORRECT TERMINOLOGY AND TO PROVIDE THAT FEES SHALL BE USED SOLELY FOR SPECIFIED PURPOSES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 37, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-3704A, Idaho Code, and to read as follows:

25-3704A. DOMESTIC CERVIDAE RANCH SURVEILLANCE. All brain tissue samples from no less than ten percent (10%) of all domestic cervidae sixteen (16) months of age or older that die or are harvested on domestic cervidae farms or ranches shall be submitted by the owner or operator of the domestic cervidae farm or ranch to official laboratories to be tested or examined for chronic wasting disease (CWD). Reindeer and fallow deer are exempt from this testing requirement unless the reindeer or fallow deer are part of a CWD pos-

itive, exposed, trace, source or suspect herd. One hundred percent (100%) of brain tissue samples may still be submitted by the owner or operator to maintain export status in accordance with the national CWD herd certification program.

SECTION 2. That Section 25-3705, Idaho Code, be, and the same is hereby amended to read as follows:

25-3705. INSPECTION OF CERVIDAE FARMS -- RANCHES. The division of animal industries and any of its officers shall have the right, at any reasonable time, to inspect any domestic cervidae farm or ranch, and may go upon such farms or ranches or any part thereof where such animals are contained to inspect and examine the same and any animals therein. Inventory and facility inspection of farms and ranches shall take place at least every five (5) years. Inspections may take place at more frequent intervals if requested by a cervidae producer. Cervidae facilities participating in the national CWD herd certification program shall be inspected pursuant to current federal rules.

SECTION 3. That Section 25-3708, Idaho Code, be, and the same is hereby amended to read as follows:

25-3708. FEEES. (1) There is hereby imposed, on domestic cervidae, a fee, not to exceed five ten dollars (\$510.00) per head per year and shall be due on January 1 of each year. Such fee shall apply to all domestic cervidae present at the farm or ranch as of December 31 and all domestic cervidae that die or have been harvested on the farm or ranch during the same calendar year.

(2) There is hereby imposed, on all domestic cervidae imported from outside of the state, a fee of ten dollars (\$10.00) per head payable by December 31 of the year of import.

(3) There is hereby imposed, on all domestic cervidae exported outside of the state, a fee of ten dollars (\$10.00) per head payable by December 31 of the year of export.

(4) There is hereby imposed, on all domestic cervidae whose ownership is transferred from one (1) producer to another within the state, a fee of ten dollars (\$10.00) per head payable by December 31 of the year of transfer.

(5) The department shall accept payment of fees by cash and check and shall also facilitate the payment of fees by debit and credit card through electronic and telephonic means, as available.

(6) Fees imposed by the provisions of subsections (2), (3) and (4) of this section shall not apply to domestic cervidae destined to an approved slaughter establishment.

(7) The fee shall be used by the Idaho state department of agriculture, division of animal industries, solely for the prevention, control and eradication of diseases of domestic cervidae, the inspection of domestic cervidae and domestic cervidae farms or ranches, and administration of the domestic cervidae program. All moneys collected under this provision shall be deposited in the livestock disease control and tuberculosis indemnity fund and used for the domestic cervidae program.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 6, 2014

CHAPTER 40
(H.B. No. 406)

AN ACT

RELATING TO ENVIRONMENTAL QUALITY; AMENDING SECTION 39-108, IDAHO CODE, TO REVISE AND TO PROVIDE CIVIL PENALTY PROVISIONS, TO REQUIRE COMPLIANCE WITH CERTAIN PUBLIC PARTICIPATION REQUIREMENTS IN ADMINISTRATIVE AND CIVIL ENFORCEMENT PROCEEDINGS, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-117, IDAHO CODE, TO PROVIDE FOR SPECIFIED CRIMINAL VIOLATIONS AND PENALTIES, TO CORRECT OBSOLETE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-175A, IDAHO CODE, TO REVISE LEGISLATIVE FINDINGS AND PURPOSES; AND AMENDING SECTION 39-175C, IDAHO CODE, TO REMOVE PROVISIONS RELATING TO THE EXPLORATION OF POTENTIAL OPERATION OF A STATE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PROGRAM, TO REMOVE PROVISIONS RELATING TO A REPORT TO THE LEGISLATURE, TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO PURSUE APPROVAL OF AN NPDES PROGRAM, TO PROVIDE THAT THE STATE SHALL SUBMIT AN APPLICATION TO THE ENVIRONMENTAL PROTECTION AGENCY BY A SPECIFIED DATE, TO PROVIDE FOR RULEMAKING ASSOCIATED WITH FEES, TO REMOVE PROVISIONS RELATING TO CERTAIN MEMORANDUMS OF AGREEMENT, TO PROVIDE THAT THE DIRECTOR, AS APPROPRIATE, SHALL ESTABLISH AGREEMENTS WITH CERTAIN OTHER STATE AGENCIES TO ADMINISTER THE NPDES PROGRAM AND TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 39-108, Idaho Code, be, and the same is hereby amended to read as follows:

39-108. INVESTIGATION -- INSPECTION -- RIGHT OF ENTRY -- VIOLATION -- ENFORCEMENT -- PENALTY -- INJUNCTIONS. (1) The director shall cause investigations to be made upon receipt of information concerning an alleged violation of this act or of any rule, permit or order promulgated thereunder, and may cause to be made such other investigations as the director shall deem advisable.

(2) For the purpose of enforcing any provision of this chapter or any rule authorized in this chapter, the director or the director's designee shall have the authority to:

(a) Conduct a program of continuing surveillance and of regular or periodic inspection of actual or potential environmental hazards, air contamination sources, water pollution sources, and of solid waste disposal sites;

(b) Enter at all reasonable times upon any private or public property, upon presentation of appropriate credentials, for the purpose of inspecting or investigating to ascertain possible violations of this act or of rules, permits or orders adopted and promulgated by the director or the board;

(c) All inspections and investigations conducted under the authority of this chapter shall be performed in conformity with the prohibitions against unreasonable searches and seizures contained in the fourth amendment to the constitution of the United States and section 17, article I, of the constitution of the state of Idaho. The state shall not, under the authority granted by this chapter, conduct warrantless searches of private property in the absence of either consent from the property owner or occupier or exigent circumstances such as a public health or environmental emergency;

(d) Any district court in and for the county in which the subject property is located is authorized to issue a search warrant to the director

upon a showing of (i) probable cause to suspect a violation, or (ii) the existence of a reasonable program of inspection. Any search warrant issued under the authority of this chapter shall be limited in scope to the specific purposes for which it is issued and shall state with specificity the manner and the scope of the search authorized.

(3) Whenever the director determines that any person is in violation of any provision of this act or any rule, permit or order issued or promulgated pursuant to this act, the director may commence either of the following:

(a) Administrative Enforcement Action.

(i) Notice. The director may commence an administrative enforcement action by issuing a written notice of violation. The notice of violation shall identify the alleged violation with specificity, shall specify each provision of the act, rule, regulation, permit or order which has been violated, and shall state the amount of civil penalty claimed for each violation. The notice of violation shall inform the person to whom it is directed of an opportunity to confer with the director or the director's designee in a compliance conference concerning the alleged violation. A written response may be required within fifteen (15) days of receipt of the notice of violation by the person to whom it is directed.

(ii) Scheduling compliance conference. If a recipient of a notice of violation contacts the department within fifteen (15) days of the receipt of the notice, the recipient shall be entitled to a compliance conference. The conference shall be held within twenty (20) days of the date of receipt of the notice, unless a later date is agreed upon between the parties. If a compliance conference is not requested, the director may proceed with a civil enforcement action as provided in paragraph (b) of this subsection.

(iii) Compliance conference. The compliance conference shall provide an opportunity for the recipient of a notice of violation to explain the circumstances of the alleged violation and, where appropriate, to present a proposal for remedying damage caused by the alleged violation and assuring future compliance.

(iv) Consent order. If the recipient and the director agree on a plan to remedy damage caused by the alleged violation and to assure future compliance, they may enter into a consent order formalizing their agreement. The consent order may include a provision providing for payment of any agreed civil penalty.

(v) Effect of consent order. A consent order shall be effective immediately upon signing by both parties and shall preclude any civil enforcement action for the same alleged violation. If a party does not comply with the terms of the consent order, the director may seek and obtain, in any appropriate district court, specific performance of the consent order and such other relief as authorized in this chapter.

(vi) Failure to reach consent order. If the parties cannot reach agreement on a consent order within sixty (60) days after the receipt of the notice of violation or if the recipient does not request a compliance conference as per paragraph (a) (ii) of this subsection, the director may commence and prosecute a civil enforcement action in district court, in accordance with subsection paragraph (b) of this subsection.

(b) Civil enforcement action. The director may initiate a civil enforcement action through the attorney general as provided in section 39-109, Idaho Code. Civil enforcement actions shall be commenced and prosecuted in the district court in and for the county in which the alleged violation occurred, and may be brought against any person who is alleged to have violated any provision of this act or any rule, permit

or order which has become effective pursuant to this act. Such action may be brought to compel compliance with any provision of this act or with any rule, permit or order promulgated hereunder and for any relief or remedies authorized in this act. The director shall not be required to initiate or prosecute an administrative action before initiating a civil enforcement action.

(4) No civil or administrative proceeding may be brought to recover for a violation of any provision of this chapter or a violation of any rule, permit or order issued or promulgated pursuant to this chapter, more than two (2) years after the director had knowledge or ought reasonably to have had knowledge of the violation.

(5) Monetary penalties.

(a) Any person determined in a civil enforcement action to have violated any provision of this act or any rule, permit or order promulgated pursuant to this act shall be liable for a civil penalty not to exceed the following amounts:

(i) For any violation of any provision of this act, rule, permit or order related to air quality: ten thousand dollars (\$10,000) for each separate air violation and day of continuing air violation, whichever is greater;

(ii) For any violation of any provision of this act, rule, permit or order related to the Idaho national pollutant elimination system program: ten thousand dollars (\$10,000) per violation or five thousand dollars (\$5,000) for each day of a continuing violation, whichever is greater; or

(iii) For any violation of any provision of this act, rule, permit or order related to any other regulatory program authorized by this act: ten thousand dollars (\$10,000) per violation or one thousand dollars (\$1,000) for each day of a continuing violation, whichever is greater or ten thousand dollars (\$10,000) for each separate air violation and day of continuing air violation.

The method of recovery of said penalty shall be by a civil enforcement action in the district court in and for the county where the violation occurred. All civil penalties collected under this act shall be paid into the general fund of the state. Parties to an administrative enforcement action may agree to a civil penalty as provided in this subsection.

(b) The imposition or computation of monetary penalties may take into account the seriousness of the violation, good faith efforts to comply with the law, and an enforceable commitment by the person against whom the penalty is directed to implement a supplemental environmental project. For purposes of this section, "supplemental environmental project" means a project which the person is not otherwise required to perform and which prevents pollution, reduces the amount of pollutants reaching the environment, contributes to public awareness of environmental matters, or enhances the quality of the environment. In evaluating a particular supplemental environmental project proposal, preference may be given to those projects with an environmental benefit ~~which that~~ relate to the violation or the objectives of the underlying statute ~~which that~~ was violated or ~~which that~~ enhances the quality of the environment in the general geographic location where the violation occurred.

(6) In addition to such civil penalties, any person who has been determined to have violated the provisions of this act or the rules, permits or orders promulgated thereunder, shall be liable for any expense incurred by the state in enforcing the act, or in enforcing or terminating any nuisance, source of environmental degradation, cause of sickness, or health hazard.

(7) No action taken pursuant to the provisions of this act or of any other environmental protection law shall relieve any person from any civil

action and damages that may exist for injury or damage resulting from any violation of this act or of the rules, permits and orders promulgated thereunder.

(8) In addition to, and notwithstanding other provisions of this act, in circumstances of emergency creating conditions of imminent and substantial danger to the public health or environment, the prosecuting attorney or the attorney general may institute a civil action for an immediate injunction to halt any discharge, emission or other activity in violation of provisions of this act or rules, permits and orders promulgated thereunder. In such action the court may issue an ex parte restraining order.

(9) In any administrative or civil enforcement proceeding for violation of any Idaho NPDES program rule, permit, requirement or order, the department shall comply with the public participation requirements set forth in 40 CFR 123.27(d)(2).

SECTION 2. That Section 39-117, Idaho Code, be, and the same is hereby amended to read as follows:

39-117. CRIMINAL VIOLATION -- PENALTY. (1) Any person who willfully or negligently violates any of the provisions of the non-air quality public health or environmental protection laws or the terms of any lawful notice, order, permit, standard, rule or regulation issued pursuant thereto, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars (\$10,000) for each separate violation or one thousand dollars (\$1,000) per day for continuing violations, whichever is greater.

(2) Any person who knowingly violates any of the provisions of the air quality public health or environmental protection laws or the terms of any lawful notice, order, permit, standard or rule issued pursuant thereto shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars (\$10,000) per day per violation. In addition, any person who knowingly releases into the ambient air any hazardous air pollutant listed pursuant to section 112 of the federal clean air act, 42 USC U.S.C. 7412, or any extremely hazardous substance listed pursuant to 42 USC U.S.C. 11002(a)(2) that is not listed under section 112, and who knows at the time that he thereby places another person in imminent danger of death or serious bodily injury shall, upon conviction, be punished by a fine of not more than two hundred fifty thousand dollars (\$250,000) per day, or by imprisonment of not more than fifteen (15) years or both such fine and imprisonment. Any person committing such violation which that is an organization, shall, upon conviction under this subsection, be subject to a fine of not more than one million dollars (\$1,000,000) for each violation. For any air pollutant for which the environmental protection agency or the board of health and welfare environmental quality has set an emissions standard or for any source for which a permit has been issued under title V of the clean air act amendments of 1990, a release of such pollutant in accordance with that standard or permit shall not constitute a violation of the provisions of this subsection.

(3) Any person who willfully or negligently violates any Idaho national pollutant discharge elimination system (NPDES) standard or limitation, permit condition or filing requirement shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars (\$10,000) per violation or for each day of a continuing violation. Any person who knowingly makes any false statement, representation or certification in any Idaho NPDES form, in any notice or report required by an NPDES permit, or who knowingly renders inaccurate any monitoring device or method required to be maintained shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five thousand dollars (\$5,000) per violation or for each day of a continuing violation.

SECTION 3. That Section 39-175A, Idaho Code, be, and the same is hereby amended to read as follows:

39-175A. LEGISLATIVE FINDINGS AND PURPOSES. (1) The legislature finds:

(a) That navigable waters within the state are one of the state's most valuable natural resources;

(b) That it is in the public interest to promote effective and efficient regulation of the discharge of pollutants into navigable waters, and ~~to explore whether that~~ the state should control such permitting decisions as authorized under the federal clean water act;

(c) That the clean water act allows a state to develop and implement, with approval from the United States environmental protection agency, a national pollutant discharge elimination system (NPDES) program to be administered by the state;

(d) That the clean water act, as amended, and regulations adopted pursuant thereto, ~~establish~~ establishes complex and detailed provisions for regulation of those who discharge pollutants into navigable waters;

(e) That a state program to implement permitting decisions as authorized in the clean water act, and regulations adopted pursuant thereto, may enable the state to issue flexible permits consistent with the clean water act and avoid the existence of duplicative, overlapping or conflicting state and federal regulatory systems and enforcement processes;

(f) That a state program must be run with a minimum of federal interference in permitting, inspection and enforcement activities and that all state permitting actions under the approved state program are to be state actions and are not subject to consultation under the endangered species act or analysis under the provisions of the national environmental policy act. There should be no conditions of approval of the state program ~~which that~~ have the effect of undermining or circumventing ~~this these~~ principles;

(g) That the decision to accept delegation of authority from the environmental protection agency to operate an NPDES program has significant public policy implications that should be made by the legislature.

(2) Therefore, it is the intent of the legislature to establish requirements that must be satisfied prior to legislative approval of a permitting program that complies with the clean water act and ~~which~~ incorporates flexible permitting procedures and rules to be promulgated by the board.

SECTION 4. That Section 39-175C, Idaho Code, be, and the same is hereby amended to read as follows:

39-175C. APPROVAL OF STATE NPDES PROGRAM. (1) The department is authorized to ~~explore whether the state should operate~~ pursue approval of an NPDES program by evaluating the costs and benefits to the state, of such a program, consistent with the requirements of this section. The department shall ~~prepare a report to the legislature as to its findings by December 31, 2005~~ submit a complete application consistent with the requirements of the clean water act and 40 CFR 123 to the environmental protection agency to obtain approval for a state NPDES program by September 1, 2016.

(2) The board is authorized to proceed with negotiated rulemaking and all other actions that may eventually be necessary to obtain approval of a state NPDES program by the United States environmental protection agency including rules authorizing the collection of reasonable fees for processing and implementing an NPDES permit program. Such fees shall not be assessed or collected until the state obtains an approved NPDES program consistent with the requirements of this section.

~~(3) The director shall not execute a memorandum of agreement with the United States environmental protection agency to obtain NPDES program approval as specified under section 402 of the clean water act and 40 CFR 123 until completion of any required consultation and issuance of any final biological opinion or biological assessment under the endangered species act.~~

~~(4) Any memorandum of agreement executed by the director to obtain approval to operate a state NPDES program shall not be binding on the state of Idaho unless authorized by enactment of a statute. Any memorandum of agreement not authorized in the above manner shall be of no force and effect.~~

~~(54) Implementation of a state NPDES program shall not occur prior to statutory enactment of implementing legislation and authorization of a memorandum of agreement as specified in subsection (43) of this section.~~

(5) The director, as appropriate, shall establish agreements with other state agencies with expertise to administer the NPDES program.

(6) No provision of this chapter shall be interpreted as to supersede, abrogate, injure or create rights to divert or store water and apply water to beneficial uses established under section 3, article XV, of the constitution of the state of Idaho, and title 42, Idaho Code.

(7) Nothing in this section is intended to supersede any existing agreements between federal, state or local agencies regarding authority over inspections, enforcement or other obligations under the clean water act.

Approved March 7, 2014

CHAPTER 41
(H.B. No. 479)

AN ACT

PROVIDING AN APPROPRIATION AND TRANSFER OF MONEYS TO THE REVOLVING DEVELOPMENT FUND FOR FISCAL YEAR 2014; PROVIDING AN APPROPRIATION AND TRANSFER OF MONEYS TO THE SECONDARY AQUIFER PLANNING, MANAGEMENT AND IMPLEMENTATION FUND FOR FISCAL YEAR 2014; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated to the Department of Water Resources for the Idaho Water Resource Board and the State Controller shall transfer \$10,500,000 from the General Fund to the Revolving Development Fund, as soon as practicable. Such moneys shall be used pursuant to Section 42-1752, Idaho Code.

SECTION 2. There is hereby appropriated to the Department of Water Resources for the Idaho Water Resource Board and the State Controller shall transfer \$4,500,000 from the General Fund to the Secondary Aquifer Planning, Management and Implementation Fund, as soon as practicable. Such moneys shall be used pursuant to Section 42-1780(2), Idaho Code.

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

Approved March 7, 2014

CHAPTER 42
(S.B. No. 1206)

AN ACT

RELATING TO IDAHO REAL ESTATE LICENSE LAW; AMENDING SECTION 54-2004, IDAHO CODE, TO DEFINE A TERM, TO REVISE DEFINITIONS AND TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 54-2022, IDAHO CODE, TO REMOVE REFERENCES TO EQUIVALENT IN AVAILABLE CORRESPONDENCE HOURS; AMENDING SECTION 54-2023, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CONTINUING EDUCATION REQUIREMENTS; AMENDING SECTION 54-2025, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 54-2026, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTIFICATION OF COURSE PROVIDERS; AMENDING SECTION 54-2028, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A TERM OF PROVIDER CERTIFICATION AND RENEWAL; AND AMENDING SECTION 54-2059, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE EXPENDITURE OF CERTAIN CIVIL PENALTIES.

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

SECTION 1. That Section 54-2004, Idaho Code, be, and the same is hereby amended to read as follows:

54-2004. DEFINITIONS. As used in this chapter:

(1) "Accredited college or university" means an institution accredited by the regional accrediting associations, as reported in the most current publication of the accredited institutions of postsecondary education.

(2) "Acting in this state" means and includes dealing with any interest in real property, or a business opportunity involving an interest in real property, that is situated in the state of Idaho, or conducting or attempting to conduct or solicit real estate business with residents of the state of Idaho.

(3) "Active license" means the status of a real estate license that has not been inactivated, expired, terminated, suspended or revoked.

(4) "Associate broker" means an individual who has qualified personally as a real estate broker in Idaho under this chapter, but is licensed under, associated with and represents a designated broker in the performance of any act described in subsection (356) of this section.

(5) "Branch office" means an office operated by a licensed real estate broker or licensed legal business entity, separate and apart from the main office. A branch office may be licensed or unlicensed, in accordance with this chapter.

(6) "Broker price opinion" means a written price opinion of the estimated price for identified real property prepared or rendered by an actively licensed broker or associate broker, for a purpose other than a prospective listing or sale, and that complies or purports to comply with the requirements and content provision of section 54-4105, Idaho Code.

(7) "Brokerage company" means a real estate business, whether a sole proprietorship, a legal entity, or any other licensed person engaged in acts requiring a real estate license in Idaho, and which is conducting or holding itself out as conducting the business of real estate through a designated broker.

(8) "Brokerage representation agreement" means a written contract between a buyer, seller, or both, and a real estate brokerage for agency representation in a regulated real estate transaction.

(9) "Business conduct and office operations course" means, ~~in reference to a real estate course offering,~~ the component of the advanced real estate course that is required in order to obtain a broker license and that teaches business practices and office operations of the brokerage,

including recordkeeping, trust account procedures and the laws governing those practices.

(10) "Business day" means and includes each day of the week except Saturday, Sunday or any other legal holiday enumerated in section 73-108, Idaho Code.

(11) "Business name" means the name in which the brokerage company is licensed by the commission.

(12) "Business opportunity" means and includes an established business, good will of an established business, or any interest therein, or any one (1) or combination thereof, where a sale or transfer of an interest in land including, but not limited to, an assignment of a lease, is involved in the transaction.

(13) "Commission" means the Idaho real estate commission, unless the context clearly indicates a different meaning.

(14) "Commission core course" means, ~~in reference to a real estate the annual course offering, the course containing covering the twelve (12) month period between July 1 and June 30, which contains curriculum,~~ identified by the commission, ~~that stresses current that year's trends in real estate practices and changes in laws in real estate related industries.~~ A core course must contain no more than four (4) classroom hours of instruction.

(15) "Continuing education elective course" means a real estate course offering, other than the commission core course for which continuing education credit hours may be obtained as provided in section 54-2023, Idaho Code.

(16) "Convicted" means a plea of nolo contendere or guilty, a jury verdict of guilty or a court decision of guilt whether or not a judgment or sentence has been imposed, withheld or suspended.

(17) "Cooperative sale" means a transaction involving two (2) or more brokers.

(18) "Council" means the Idaho real estate education council.

(19) "Dealer in options" means any person, firm, partnership, association or corporation who shall directly or indirectly take, obtain or use options to purchase, exchange, lease option or lease purchase real property or any interest therein for another or others whether or not the options shall be in his or its name and whether or not title to the property shall pass through the name of the person, firm, partnership, association or corporation in connection with the purchase, sale, exchange, lease option or lease purchase of the real property, or interest therein.

(20) "Designated broker" means an individual who is licensed as a real estate broker in Idaho and who is designated by the brokerage company to be responsible for the supervision of the brokerage company and the activities of any associated licensees in accordance with this chapter.

(21) "Distance learning course" means, in relation to a real estate course offering, a real estate course that is delivered, not as a live course, but through a medium in which the instructor and student are separated by both distance and time.

(22) "Double contract" means two (2) or more written or unwritten contracts of sale, purchase and sale agreements, loan applications, or any other agreements, one (1) of which is not made known to the prospective loan underwriter or the loan guarantor, to enable the buyer to obtain a larger loan than the true sales price would allow, or to enable the buyer to qualify for a loan which he or she otherwise could not obtain. An agreement or loan application is not made known unless it is disclosed in writing to the prospective loan underwriter or loan guarantor.

(23) "Executive director" means the executive director of the Idaho real estate commission.

(24) "Expired license" means the status of a license when the license period has expired and the license is not renewed or provisional license granted, and before the license is terminated.

(25) "Fee or commission" means a payment, actual, promised or expected, as compensation for the performance of any act requiring a real estate license.

(26) "Inactive license" means the status of a license that is not expired, terminated, suspended or revoked, and during which inactive period the license holder is not authorized to act as or associate with a designated broker.

(27) "Legal business entity" means and includes any type of corporation, partnership, limited liability company or limited liability partnership, a governmental entity, trust or other entity capable of conducting business.

(28) "Licensee" means any person who is licensed in accordance with this chapter to engage in the business or act in the capacity of real estate broker, associate broker or real estate salesperson.

(29) "Limited broker" means a broker individually qualified to do business in Idaho, but who may not have associate brokers or salespersons licensed with that broker.

(30) "Live presentation" means, in reference to a real estate course offering, a real estate course that is personally presented by the instructor and personally attended by the student at the same facility, or, if separated by distance, the instructor and student are connected by contemporaneous, two-way audio and visual communication.

(31) "Main office" means the principal location where the real estate broker is licensed to transact business.

(32) "Person" means and includes an individual, or any legal business entity.

(33) "Post license course" means a commission-approved or certified elective course that is specifically oriented toward salespersons in their first two (2) years of Idaho practice. The course must contain no more than twelve (12) classroom hours of instruction.

(34) "Primary Idaho license" means an Idaho real estate license that is not contingent upon continuance of a license in another state or jurisdiction.

(345) "Provisional license" means an extension of the period of active licensure, beyond the licensee's expiration date, granted by the commission for the purpose of allowing the licensee to complete the continuing education requirements set forth in section 54-2023, Idaho Code, or for any other purpose allowed by this chapter.

(356) "Real estate broker" means and includes:

(a) Any person other than a real estate salesperson, who, directly or indirectly, while acting for another, for compensation or a promise or an expectation thereof, engages in any of the following: sells, lists, buys, or negotiates, or offers to sell, list, buy or negotiate the purchase, sale, option or exchange of real estate or any interest therein or business opportunity or interest therein for others;

(b) Any actively licensed broker while, directly or indirectly, acting on the broker's own behalf;

(c) Any person who represents to the public that the person is engaged in any of the above activities;

(d) Any person who directly or indirectly engages in, directs, or takes any part in the procuring of prospects, or in the negotiating or closing of any transaction which does or is calculated to result in any of the acts above set forth;

(e) A dealer in options as defined in this section.

(367) "Real estate salesperson" or "salesperson" means any person who has qualified and is licensed as a real estate salesperson in Idaho under this chapter, and is licensed under, associated with, and represents a designated broker in the performance of any act described in subsection (356) of this section.

(378) "Real estate settlement procedures act" means the real estate settlement procedures act of 1974, as amended, 12 U.S.C. section 2601 et seq., and as in effect on January 1, 2008.

(389) "Regulated real estate transaction" means those real estate transactions for which a real estate license is required under chapter 20, title 54, Idaho Code.

(3940) "Responsible broker" means the designated broker in the regulated real estate transaction who is responsible for the accounting and transaction files for the transaction, in the manner described in section 54-2048, Idaho Code.

(401) "Revoked license" means a license that has been permanently revoked by the issuing authority.

(412) "Sales associate" means a salesperson or an associate broker licensed under and associated with a designated broker.

(423) "State or jurisdiction" means and includes any ~~of the fifty (50) states or territory of the United States, the District of Columbia and any foreign jurisdiction country~~ that issues real estate licenses substantially similar to those provided for in this chapter.

(434) "Successfully completed" means, in reference to a real estate course offering, completing all required course hours and, except where the licensee seeks continuing education credit for having regularly attended the live presentation of a course, passing a commission-approved final examination.

(445) "Surrendered license" means a license that has been voluntarily terminated or surrendered by a licensee who, at the time of the voluntary termination or surrender, was under investigation or named in a formal administrative complaint.

(456) "Suspended license" means a license that has been temporarily suspended by the issuing authority.

SECTION 2. That Section 54-2022, Idaho Code, be, and the same is hereby amended to read as follows:

54-2022. REAL ESTATE EDUCATION -- PRELICENSE REQUIREMENTS. (1) Except as provided in section 54-2015, Idaho Code, an applicant seeking a primary Idaho license as a real estate salesperson, broker or associate broker shall furnish satisfactory proof to the commission that the applicant has successfully completed current commission-approved and accredited courses of real estate study as follows:

(a) Salesperson's license. For a salesperson's license, the applicant shall complete a total of ninety (90) classroom hours ~~or the equivalent in available correspondence hours~~;

(b) Broker's or associate broker's license. Applicants seeking a broker's or associate broker's license shall, in addition to meeting the requirements for a salesperson's license, successfully complete four (4) specified courses in advanced real estate study, for a minimum of ninety (90) additional classroom hours, ~~or the equivalent in available correspondence hours~~.

(2) Each applicant shall successfully complete all prelicense real estate courses within no more than three (3) years prior to the date of the license application. However, upon written request for special consideration by the license applicant, the commission may waive or modify the three-year requirement at its discretion, based on the applicant's experience or additional education. Each waiver request shall be submitted with a current certified license history from Idaho or the applicant's other licensing jurisdiction, which history shall indicate all disciplinary actions taken against the applicant's license and the status and standing of such license in such licensing state or jurisdiction, along with sufficient proof of education completion.

(3) To receive credit for prelicense real estate courses, a student must regularly attend and complete the course, and such course must meet all requirements set forth in section 54-2036, Idaho Code.

(4) No credit will be given for courses taken for audit.

(5) Credit for completion of approved prelicense education coursework will not be granted when the content of a course repeats that for which credit has been previously received.

(6) Upon written request from a license applicant, the commission may waive or modify one (1) or more prelicense course requirements based upon the applicant's satisfactory completion of similar real estate courses in Idaho or another state or jurisdiction. The request for waiver shall be accompanied by an official transcript from the institution that provided the course of instruction, along with a description of the subjects covered in the course and the number of classroom hours involved in the instruction. "Satisfactory completion" means the applicant regularly attended the course and received a final grade of "C" or better.

SECTION 3. That Section 54-2023, Idaho Code, be, and the same is hereby amended to read as follows:

54-2023. CONTINUING EDUCATION REQUIREMENTS. (1) Each licensee applying to renew an Idaho real estate broker or salesperson license on active status, and each Idaho licensee broker or salesperson applying to change from inactive to active license status after having renewed the license on inactive status, shall successfully complete a two (2) commission core courses, plus the required number of twelve (12) classroom hours of commission-approved or certified continuing education coursework as provided in this section. credit. If the inactive licensee is within the initial licensing period, no continuing education is required to change to active license status. Provided that:

~~(1) Required number of classroom hours. The required number of classroom hours is as follows:~~

~~(a) Renewing license on active status. A licensee renewing on active status must successfully complete a commission core course, plus sixteen (16) classroom hours of continuing education, on or before the current license expiration date Salesperson -- First active renewal or activation. To renew an Idaho salesperson license on active status for the first time, or to change from inactive to active status for the first time after the expiration of the initial license period, a salesperson shall complete two (2) commission core courses, plus the post license course.~~

~~(b) Change from inactive to active. Unless the licensee is within the initial licensing period, a licensee changing from inactive to active license status shall complete a commission core course, plus sixteen (16) classroom hours of continuing education, before he can change to active license status. If the inactive licensee is within his initial licensing period, no continuing education is required to change to active license status Inactive broker activating as a designated broker or branch manager. To activate as a designated broker or branch manager, a broker on inactive status shall, in addition to meeting the continuing education requirements of this subsection, have completed a commission-approved business conduct and office operations course within three (3) years immediately prior to the license activation.~~

~~(e2) Credits used to reactivate license. Continuing education credit hours applied to activate an inactive license are considered "spent" and may not thereafter be applied toward the continuing education requirements for subsequent license renewal.~~

~~(23) No duplicate credit. No licensee may obtain continuing education credit for completing:~~

(a) Any core course curriculum for which the licensee has previously received continuing education credit; or

(b) Any course curriculum for which the licensee has received continuing education credit in the same license period.

(34) Excess credits. The classroom hours shall apply to the license period in which such course is completed; hours completed in excess of those required for the license period shall not accumulate or be credited for the purposes of subsequent license renewal periods.

(45) Commission-ordered education. No licensee shall obtain continuing education credit for education ordered by the commission as part of a disciplinary action.

(56) Obtaining continuing education classroom hours. In order to obtain continuing education classroom hours, a licensee must:

(a) Successfully complete a commission-approved continuing education or post license course;

~~(b) Successfully complete a commission-approved continuing education challenge exam;~~

~~(c) Attend a regularly scheduled meeting of the commission from the time the meeting is called to order until the meeting is adjourned or until the licensee is excused by the commission chairperson. A maximum of four (4) hours for this activity shall be credited for any one (1) meeting in any one (1) license period;~~

~~(dc) Successfully complete a commission-approved broker prelicense course, or a commission-approved continuing education challenge exam, in advanced real estate study. Continuing education credit may be obtained for retaking the same broker prelicense course or challenge exam only if completed after three (3) years of completing the previous course or challenge exam; or~~

(ed) Provide to the commission a transcript or course completion certificate of successful completion of any of the following courses without commission preapproval of the curriculum, instructors or providers:

(i) Professional designation courses. Any course developed by national professional organizations that is required in order to earn professional designations from a national organization in specialized areas of licensed real estate practice;

(ii) Courses accredited by another profession or jurisdiction. Any course approved by and offered in satisfaction of another professional or occupational licensing authority's education requirements, if the commission determines that the course is within the approved topic areas established by the commission and if the course otherwise meets commission standards for course certification including distance learning and minimum classroom hour requirements; or

(iii) Courses offered by an accredited college or university. Any course offered in satisfaction of a degree requirement by an accredited college or university if the commission determines that the course is within the approved topic areas established by the commission.

~~(fe) If a certified course instructor, teach a live course for which continuing education credit may be obtained. Credits shall be granted for the number of classroom hours taught.~~

(67) Licensee duty to keep satisfactory proof. The licensee shall keep satisfactory proof of having completed the continuing education requirement and shall submit such proof at the request of the commission as provided in section 54-2018, Idaho Code.

(78) Provisional license -- Extension of time. A three (3) month extension of time for completing the education requirements may be obtained by submitting with the renewal application, or application to activate, satis-

factory evidence showing that the applicant was unable to comply with such education requirements. Such evidence shall be:

- (a) Bona fide hardship preventing completion of the reinstatement requirements of an inactive license;
- (b) Health reasons preventing attendance or completion; or
- (c) Other compelling cause beyond the control of the applicant while engaged in the real estate business.

If such an extension is granted, the licensee shall receive a provisional license for a period of time not to exceed three (3) months. No further extension of time may be granted. A license issued or renewed after an extension of time has been granted shall retain the original license expiration date. Failure to satisfy the continuing education requirement within the time granted shall result in the automatic inactivation of the license.

SECTION 4. That Section 54-2025, Idaho Code, be, and the same is hereby amended to read as follows:

54-2025. CERTIFICATION REQUIREMENTS. (1) Certification required. Except as otherwise provided in section 54-2023(56)(ed), Idaho Code, certification must be obtained by all course providers, instructors teaching any course other than a continuing education elective course, and for all course content in order for the course to be credited toward prelicense or continuing education requirements in Idaho under this chapter.

(2) Courses, instructors and providers monitored. The commission or its representative may monitor any course for the purpose of course, instructor or provider certification.

(3) If the commission at any time determines that an instructor, course or provider is not meeting the requirements for continued commission approval or certification, written notification detailing the deficiencies requiring correction shall be made immediately to the appropriate person. The commission shall take no action to withdraw the certification for thirty (30) days from the date of the written notice. At the expiration of this period, if the deficiencies have not been corrected to the commission's satisfaction, the commission may take action to withdraw certification. Withdrawal of certification shall be governed by the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, and the rules of the commission.

SECTION 5. That Section 54-2026, Idaho Code, be, and the same is hereby amended to read as follows:

54-2026. CERTIFICATION OF COURSE PROVIDERS. (1) Degree-granting institutions. Degree-granting, accredited colleges and universities in any state or jurisdiction shall be deemed to be approved course providers in Idaho. However, course content must still be approved for the real estate education course to receive credit toward prelicense or continuing education licensing requirements in Idaho.

(2) Other course providers. All other course providers desiring to offer real estate courses for credit toward Idaho prelicense or continuing education requirements must first meet the following qualifications and receive certification. Each applicant seeking certification as a course provider shall comply with the following:

- (a) File an application for certification in the form and manner required by the commission, along with proper fees, at least two (2) months prior to contemplated date of opening or first accredited course offering;
- (b) Designate a "director" or "individual in charge," who shall be responsible for the course provider's operation and its real estate courses, and with whom the commission may communicate. Unless this

requirement is waived upon special review of the commission in the manner stated below, the individual in charge ~~must~~ shall:

(i) ~~n~~Not have had a real estate or other professional or occupational license suspended or revoked for disciplinary reasons or have been refused a renewal of a license issued by the state of Idaho or any other state or jurisdiction;

(ii) ~~The designated individual in charge must~~ ~~n~~Not have been convicted, issued any fine, placed on probation, received a withheld judgment, or completed any sentence of confinement for or on account of any felony or a misdemeanor involving fraud, misrepresentation, or dishonest or dishonorable dealing in a court of proper jurisdiction; and

(iii) Have attended a commission-approved provider training within the two (2) years immediately preceding the designation.

The failure of the provider to have in place a designated individual meeting the qualifications required by this subsection shall be grounds for the commission to withdraw or cancel the provider's certificate as provided in section 54-2025 (3), Idaho Code;

(c) File a properly executed "irrevocable consent to service of process" in the manner and form prescribed by the commission and in substantial accordance with section 54-2012(1)(k), Idaho Code. The commission, in its discretion, may make such additional investigation and inquiry relative to the applicant for provider certification as it deems advisable and, if good cause exists, may deny or accept the application for certification.

SECTION 6. That Section 54-2028, Idaho Code, be, and the same is hereby amended to read as follows:

54-2028. TERM OF PROVIDER CERTIFICATION AND RENEWAL. (1) Each course provider's certification issued by the commission shall be for a term of two (2) years. The exact expiration date will be shown on the provider certificate.

(2) In order to maintain certification, each provider ~~must~~ shall:

(a) ~~Return~~ a properly completed renewal application on a form provided by the commission, along with all necessary attachments and renewal fees to the commission office prior to the expiration date for commission approval; and

(b) Certify that its designated director or person in charge has, within the past two (2) years, attended a commission-approved provider training.

(3) Recertification is not effective until the commission has formally approved the application for renewal.

(4) Failure to obtain approved renewal of certification prior to its expiration date will result in no credit being given for courses not yet successfully completed by the expiration date.

SECTION 7. That Section 54-2059, Idaho Code, be, and the same is hereby amended to read as follows:

54-2059. DISCIPLINARY POWERS -- REVOCATION, SUSPENSION OR OTHER DISCIPLINARY ACTION. (1) The commission may temporarily suspend or permanently revoke licenses issued under the provisions of this chapter, issue a formal reprimand and impose a civil penalty in an amount not to exceed five thousand dollars (\$5,000), and assess costs and attorney's fees for the cost of any investigation and administrative or other proceedings against any licensee who is found to have violated any section of the Idaho Code, the commission's administrative rules or any order of the commission. The executive director

may issue informal letters of reprimand to licensees without civil penalty or cost assessment.

The commission may impose a civil penalty in an amount not to exceed five thousand dollars (\$5,000) and assess costs and attorney's fees for the cost of any investigation and administrative or other proceedings against any person who is found, through a court or administrative proceeding, to have acted without a license in violation of section 54-2002, Idaho Code. The civil penalty provisions of this section are in addition to and not in lieu of any other actions or criminal penalties for acting as a broker or salesperson without a license which might be imposed by other sections of this chapter or Idaho law.

The commission may also accept, on such conditions as it may prescribe, or reject any offer to voluntarily terminate the license of a person whose activity is under investigation or against whom a formal complaint has been filed.

(2) If the commission suspends or revokes a license, or imposes a civil penalty, or assesses costs and attorney's fees, the commission may withhold execution of the suspension, revocation or civil penalty, or costs and attorney's fees on such terms and for such time as it may prescribe.

(3) If any amounts assessed against a defendant by final order of the commission become otherwise uncollectible or payment is in default, and only if all the defendant's rights to appeal have passed, the commission may then proceed to district court and seek to enforce collection through judgment and execution.

(4) All civil penalties, costs, and attorney's fees collected by the commission under this chapter shall be deposited in the state treasury to the credit of the special real estate fund established by section 54-2021, Idaho Code. Any amounts of civil penalties so collected, deposited and credited shall be expended for exclusive use in developing and delivering Idaho real estate education to ~~benefit Idaho real estate licensees~~.

Approved March 11, 2014

CHAPTER 43

(S.B. No. 1224, As Amended)

AN ACT

RELATING TO BEHAVIORAL HEALTH SERVICES; AMENDING THE HEADING FOR CHAPTER 31, TITLE 39, IDAHO CODE; AMENDING CHAPTER 31, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3121, IDAHO CODE, TO PROVIDE A DECLARATION OF POLICY; AMENDING CHAPTER 31, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3122, IDAHO CODE, TO PROVIDE DEFINITIONS; REPEALING SECTION 39-3123, IDAHO CODE, RELATING TO DECLARATION OF POLICY; AMENDING SECTION 39-3124, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE TERMINOLOGY, TO PROVIDE FOR STATE SUBSTANCE USE DISORDER AUTHORITY AND TO PROVIDE THAT APPROPRIATIONS TO EXECUTIVE AGENCIES OR THE JUDICIARY SHALL NOT BE PROHIBITED; AMENDING CHAPTER 31, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3124, IDAHO CODE, TO PROVIDE FOR THE ESTABLISHMENT OF AN IDAHO BEHAVIORAL HEALTH COOPERATIVE; AMENDING SECTION 39-3125, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DUTIES AND APPOINTMENT OF THE STATE BEHAVIORAL HEALTH PLANNING COUNCIL, TO REVISE TERMINOLOGY AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 39-3126, IDAHO CODE, TO REVISE TERMINOLOGY AND TO PROVIDE FOR BUDGETARY CONFINES; AMENDING CHAPTER 31, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3127, IDAHO CODE, TO PROVIDE FOR THE COORDINATION OF SERVICES BETWEEN REGIONS AND STATES; AMENDING CHAPTER 31, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3128, IDAHO CODE, TO

AUTHORIZE THE STATE BEHAVIORAL HEALTH AUTHORITY TO CONTRACT FOR THE LEASE OF FACILITIES FOR BEHAVIORAL HEALTH CENTERS; REPEALING SECTION 39-3129, IDAHO CODE, RELATING TO PETITION FOR REGIONAL SERVICES; AMENDING CHAPTER 31, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3129, IDAHO CODE, TO AUTHORIZE THE APPOINTMENT OF A DIVISION ADMINISTRATOR FOR REGIONAL BEHAVIORAL HEALTH CENTERS AND TO PROVIDE FOR DUTIES OF THE ADMINISTRATOR; AMENDING SECTION 39-3127, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE TERMINOLOGY; REPEALING SECTION 39-3131, IDAHO CODE, RELATING TO TERMS, VACANCIES AND COMPENSATION; AMENDING SECTION 39-3128, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE TERMINOLOGY AND TO REVISE BEHAVIORAL HEALTH SERVICES TO BE OFFERED; AMENDING CHAPTER 31, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3132, IDAHO CODE, TO PROVIDE FOR THE ESTABLISHMENT OF REGIONAL BEHAVIORAL HEALTH BOARDS; REPEALING SECTION 39-3133, IDAHO CODE, RELATING TO DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING CHAPTER 31, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3133, IDAHO CODE, TO PROVIDE FOR THE ESTABLISHMENT OF AN EXECUTIVE COMMITTEE OF THE REGIONAL BEHAVIORAL HEALTH BOARDS AND TO PROVIDE FOR POWERS AND DUTIES OF THE COMMITTEE; REPEALING SECTION 39-3134, IDAHO CODE, RELATING TO COORDINATION OF SERVICES BETWEEN REGIONS AND STATE; AMENDING SECTION 39-3130, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE TERMINOLOGY AND TO PROVIDE FOR MEMBERS, TERMS AND APPOINTMENTS FOR THE REGIONAL BEHAVIORAL HEALTH BOARDS; REPEALING SECTION 39-3134A, IDAHO CODE, RELATING TO COOPERATIVE SERVICE PLAN COMPONENT; REPEALING SECTION 39-3135, IDAHO CODE, RELATING TO FACILITIES FOR MENTAL HEALTH SERVICES; AMENDING SECTION 39-3132, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE PROVISIONS RELATING TO POWERS AND DUTIES OF THE REGIONAL BEHAVIORAL HEALTH BOARDS, TO REVISE TERMINOLOGY AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 39-3136, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-3137, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-3138, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-3139, IDAHO CODE, TO REVISE TERMINOLOGY; AND AMENDING CHAPTER 31, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3140, IDAHO CODE, TO PROVIDE FOR RULEMAKING AUTHORITY.

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

SECTION 1. That the Heading for Chapter 31, Title 39, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 31
REGIONAL ~~MENTAL~~ BEHAVIORAL HEALTH SERVICES

SECTION 2. That Chapter 31, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3121, Idaho Code, and to read as follows:

39-3121. DECLARATION OF POLICY. It is the policy of this state to provide treatment services for its citizens living with mental illness and/or substance use disorder, acknowledging that these illnesses cause intense human suffering and severe social and economic loss to the state. Recognizing that there is insufficient funding to meet the many needs of Idahoans with behavioral health disorders, it is critical that the behavioral health system efficiently use existing and future resources and increase accountability for services and funding. Additionally, the system needs to distinguish between and accommodate for the difference in the treatment and support services for children, youth, adults and the transitions between them. Regional behavioral health services, providing early and appropriate diagnosis and treatment, have proven to be effective in reducing the adverse

impact of these disorders and valuable in creating the possibility of recovery. Families play a key role in the successful treatment of behavioral health disorders and provision of services. Participation by consumers and their families in system governance is critical to ensure ongoing system improvements. Acknowledging the policy of the state to provide behavioral health services to all citizens in need of such care, it is the purpose of this chapter to delegate to the state behavioral health authority the responsibility and authority to establish and maintain regional behavioral health services in order to extend appropriate mental health and substance use disorder treatment services to its citizens within all regions of the state.

SECTION 3. That Chapter 31, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3122, Idaho Code, and to read as follows:

39-3122. DEFINITIONS. (1) "Behavioral health" means an integrated system for evaluation and treatment of mental health and substance use disorders.

(2) "Region" means the administrative regions as defined by the department of health and welfare. Two (2) or more regions may consolidate for the purposes of this chapter. For the purposes of this chapter, regions will be consistent with judicial districts.

SECTION 4. That Section 39-3123, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 39-3124, Idaho Code, be, and the same is hereby amended to read as follows:

39-31243. DESIGNATION OF STATE MENTAL HEALTH AUTHORITY AND STATE SUBSTANCE USE DISORDER AUTHORITY. The Idaho department of health and welfare is hereby designated the state mental health authority and the state substance use disorder authority, hereinafter referred to as the state behavioral health authority. The state mental behavioral health authority is responsible for overseeing the state of Idaho's behavioral health system of care. The department shall fulfill this role through a collaborative process, taking into consideration and incorporating whenever reasonably possible the recommendations and evaluations of the state behavioral health planning council on mental health and the regional mental behavioral health boards in all statewide efforts to expand, improve, modify or transform the mental behavioral health service delivery system of the state. ~~The state mental health authority shall identify the resources necessary for these efforts to be implemented on a statewide basis~~ The provisions of this section shall not prohibit appropriations to executive agencies or the judiciary to fund community-based behavioral health treatment within their target population. The behavioral health authority shall report utilization, performance, outcome and other quality assurance data to the state behavioral health planning council and the regional behavioral health board on an annual basis.

SECTION 6. That Chapter 31, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3124, Idaho Code, and to read as follows:

39-3124. IDAHO BEHAVIORAL HEALTH COOPERATIVE. The behavioral health authority shall establish the Idaho behavioral health cooperative to advise it on issues related to the coordinated delivery of community-based behavioral health services. The membership shall include representatives from the Idaho state judiciary, the Idaho department of correction, the Idaho de-

partment of juvenile corrections, the office of drug policy, the Idaho association of counties, the state behavioral health planning council, an adult consumer of services, a family member of a youth consumer of services, the state department of education and the Idaho department of health and welfare, at a minimum, but may also include other members as deemed necessary by the behavioral health authority. The Idaho behavioral health cooperative shall meet quarterly, with additional meetings called at the request of the state behavioral health authority.

SECTION 7. That Section 39-3125, Idaho Code, be, and the same is hereby amended to read as follows:

39-3125. STATE BEHAVIORAL HEALTH PLANNING COUNCIL ON MENTAL HEALTH. (1) A state behavioral health planning council, hereinafter referred to as the planning council, shall be established to serve as an advocate for children and adults with a severe mental illness and for seriously emotionally disturbed children and youth behavioral health disorders; to advise the state mental behavioral health authority on issues of concern, on policies and on programs and to provide guidance to the mental state behavioral health authority in the development and implementation of the state mental behavioral health systems plan; to monitor and evaluate the allocation and adequacy of mental behavioral health services within the state on an ongoing basis; to monitor and evaluate the effectiveness of state laws that address behavioral health services; to ensure that individuals with severe mental illness and serious emotional disturbances behavioral health disorders have access to prevention, treatment, prevention and rehabilitation services including those services that go beyond the traditional mental health system; to serve as a vehicle for intra-agency and interagency policy and program development; and to present to the governor, the judiciary and the legislature by June 30 of each year a report on the council's achievements activities and the impact on the quality of life that mental an evaluation of the current effectiveness of the behavioral health services has on citizens of provided directly or indirectly by the state to adults and children. The planning council shall establish readiness and performance criteria for the regional boards to accept and maintain responsibility for family support and recovery support services. The planning council shall evaluate regional board adherence to the readiness criteria and make a determination if the regional board has demonstrated readiness to accept responsibility over the family support and recovery support services for the region. The planning council shall report to the behavioral health authority if it determines a regional board is not fulfilling its responsibility to administer the family support and recovery support services for the region and recommend the regional behavioral health centers assume responsibility over the services until the board demonstrates it is prepared to regain the responsibility.

(2) The planning council shall be appointed by the governor and be comprised of no less more than fifty percent (50%) family members and consumers with mental illness state employees or providers of behavioral health services. Membership shall also reflect to the extent possible the collective demographic characteristics of Idaho's citizens. The planning council membership shall strive to include representation from consumers, families of adults individuals with severe serious mental illness or substance use disorders; behavioral health advocates; families of children or youth with serious emotional disturbance; principal state agencies including and the judicial branch with respect to mental behavioral health, education, vocational rehabilitation, criminal justice adult correction, juvenile justice and law enforcement, title XIX of the social security act and other entitlement programs; public and private entities concerned with the need, planning, operation, funding and use of mental health services

or substance use disorders, and related support services; and the regional mental behavioral health board in each department of health and welfare region as provided for in section 39-31304, Idaho Code. The planning council may include members of the legislature and the state judiciary.

(3) The planning council members will serve a term of two (2) years or at the pleasure of the governor, provided however, that of the members first appointed, one-half (1/2) of the appointments shall be for a term of one (1) year and one-half (1/2) of the appointments shall be for a term of two (2) years. The governor will appoint a chair and a vice-chair whose terms will be two (2) years.

(4) The council may establish subcommittees at its discretion.

SECTION 8. That Section 39-3126, Idaho Code, be, and the same is hereby amended to read as follows:

39-3126. DESIGNATION OF REGIONS FOR COMPREHENSIVE MENTAL REGIONAL BEHAVIORAL HEALTH SERVICES CENTERS. Recognizing both the right need of every citizen to receive the best mental behavioral health services that the state is able to provide within budgetary confines and the disproportionate ability of counties to finance mental behavioral health services, the state mental behavioral health authority shall designate regions and be responsible for establishing regional comprehensive mental behavioral health services centers for all areas of the state. In the establishment of regions, primary consideration will be given to natural population groupings and trading service areas, the regions previously designated for the establishment of other health services, the mental behavioral health needs of the people within the proposed regions, and the appropriate maximal use of available funding.

SECTION 9. That Chapter 31, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3127, Idaho Code, and to read as follows:

39-3127. COORDINATION OF SERVICES BETWEEN REGIONS AND STATE. The director of the department of health and welfare shall coordinate services between the regional behavioral health centers, regional behavioral health boards and the state psychiatric hospitals.

SECTION 10. That Chapter 31, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3128, Idaho Code, and to read as follows:

39-3128. FACILITIES FOR BEHAVIORAL HEALTH CENTERS. The state behavioral health authority may contract for the lease of facilities appropriate for the establishment of behavioral health centers. In order to encourage the development of comprehensive and integrated health care and whenever feasible and consistent with behavioral health treatment, these facilities shall be in or near facilities within the region housing other health services.

SECTION 11. That Section 39-3129, Idaho Code, be, and the same is hereby repealed.

SECTION 12. That Chapter 31, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3129, Idaho Code, and to read as follows:

39-3129. DIVISION ADMINISTRATOR FOR REGIONAL BEHAVIORAL HEALTH CENTERS -- DUTIES. The director of the department of health and welfare shall appoint a division administrator to manage the regional behavioral health

centers and shall supervise its program; shall prescribe uniform standards of treatment, services and care provided by the regional behavioral health centers and regional behavioral health boards; shall set the professional qualifications for staff positions; and make such other policy as are necessary and proper to carry out the purposes and intent of this chapter.

SECTION 13. That Section 39-3127, Idaho Code, be, and the same is hereby amended to read as follows:

39-312730. RECIPROCAL AGREEMENTS BETWEEN STATES TO SHARE SERVICES. In such regions where natural population groupings overlap state boundaries, a an interstate regional comprehensive mental behavioral health service may be established jointly with a neighboring state or states. In such instances, the state mental behavioral health authority may enter into reciprocal agreements with these states to either share the expenses of the service in proportion to the population served; to allow neighboring states to buy services from Idaho; or to allow Idaho to purchase services that are otherwise not available to her its citizens.

SECTION 14. That Section 39-3131, Idaho Code, be, and the same is hereby repealed.

SECTION 15. That Section 39-3128, Idaho Code, be, and the same is hereby amended to read as follows:

39-312831. BEHAVIORAL HEALTH SERVICES TO BE OFFERED. ~~A The regional mental behavioral health service center shall include one (1) or more of the provide or arrange for the delivery of services that, combined with community family support and recovery support services provided through the regional behavioral health boards, medicaid and services delivered through a private provider network, will leading to the establishment of a regional comprehensive mental regional behavioral health center system of care that incorporates patient choice and family involvement to the extent reasonably practicable and medically and professionally appropriate. A comprehensive mental~~ The regional behavioral health center may include such shall provide or arrange for the delivery of the following services as:

- ~~(1) Short-term hospitalization for psychiatric treatment in an approved medical facility within the region;~~
- ~~(2) Partial hospitalization;~~
- ~~(3) Outpatient diagnosis and treatment;~~
- ~~(4) 24-hour emergency psychiatric services;~~
- ~~(5) Community consultation and education;~~
- ~~(6) Diagnostic services for other agencies;~~
- ~~(7) Rehabilitative services;~~
- ~~(8) Precare and postcare services in cooperation with a state mental hospital;~~
- ~~(9) Training of mental health personnel;~~
- ~~(10) Research and evaluation;~~
- ~~(11) Transitional housing for individuals, including juveniles, with mental illness and/or addiction disorders to promote and sustain the ability of these individuals to live in the community and avoid institutionalization; and~~
- ~~(12) Intensive supportive services such as those delivered by assertive community treatment teams. Assertive community treatment teams provide individualized treatment, rehabilitation and support services to the severely and persistently mentally ill.~~

(1) Treatment services for individuals who do not have other benefits available to meet their behavioral health needs as resources allow including, but not limited to, psychiatric services, medication management, re-

habilitative and community-based services, outpatient and intensive outpatient services, assertive community treatment, case management and residential care;

(2) Community family support and recovery support services as defined in section 39-3135(7), Idaho Code, until the regional behavioral health board can meet the initial readiness criteria and voluntarily accepts responsibility for these services or if the regional behavioral health board fails to sustain criteria to maintain responsibility for these services;

(3) Evaluation and intervention for individuals experiencing a behavioral health emergency;

(4) Hospital precare and postcare services, in cooperation with state and community psychiatric hospitals, for individuals who have been committed to the custody of the director of health and welfare pursuant to sections 18-212 and 66-329, Idaho Code, or who are under an involuntary treatment order pursuant to chapter 24, title 16, Idaho Code;

(5) Evaluation and securing mental health treatment services as ordered by a court for individuals pursuant to section 19-2524, 20-511A or 20-519B, Idaho Code; and

(6) Evaluation and securing treatment services for individuals who are accepted into mental health courts.

SECTION 16. That Chapter 31, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3132, Idaho Code, and to read as follows:

39-3132. REGIONAL BEHAVIORAL HEALTH BOARDS -- ESTABLISHMENT. There is hereby created and established in each region a regional behavioral health board. It is legislative intent that the regional behavioral health boards operate and be recognized not as a state agency or department, but as governmental entities whose creation has been authorized by the state, much in the manner as other single purpose districts. However, the regional behavioral health boards shall have no authority to levy taxes. For the purposes of section 59-1302(15), Idaho Code, the seven (7) regional behavioral health boards created pursuant to this chapter shall be deemed governmental entities. The regional behavioral health boards are authorized to provide the community family support and recovery support services identified in section 39-3135(7), Idaho Code. The services identified in section 39-3135(7), Idaho Code, shall not be construed to restrict the services of the regional behavioral health board solely to these categories.

SECTION 17. That Section 39-3133, Idaho Code, be, and the same is hereby repealed.

SECTION 18. That Chapter 31, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3133, Idaho Code, and to read as follows:

39-3133. EXECUTIVE COMMITTEE OF THE REGIONAL BEHAVIORAL HEALTH BOARDS. Each regional behavioral health board shall annually elect from within its membership an executive committee of five (5) members empowered to make fiscal, legal and business decisions on behalf of the full board or join with another governmental entity that can fulfill the same management infrastructure function. If the regional behavioral health board elects to create its own internal executive committee, the membership shall be representative of the regional behavioral health board membership and must, at a minimum, include one (1) mental health consumer or advocate and one (1) substance use disorder consumer or advocate. The executive committees or the partner public entity shall have the power and duty, on behalf of the regional behavioral health boards, to:

(1) Establish a fiscal control policy as required by the state controller;

(2) Enter into contracts and grants with other governmental and private agencies, and this chapter hereby authorizes such other agencies to enter into contracts with the regional behavioral health boards, as deemed necessary to fulfill the duties imposed upon the board to promote and sustain the ability of individuals with behavioral health disorders to live in the community and avoid institutionalization;

(3) Develop and maintain bylaws as necessary to establish the process and structure of the board; and

(4) Employ and fix the compensation, subject to the provisions of chapter 53, title 67, Idaho Code, of such personnel as may be necessary to carry out the duties of the regional behavioral health boards.

All meetings of the executive committee shall be held in accordance with the open meeting law as provided for in chapter 23, title 67, Idaho Code.

SECTION 19. That Section 39-3134, Idaho Code, be, and the same is hereby repealed.

SECTION 20. That Section 39-3130, Idaho Code, be, and the same is hereby amended to read as follows:

39-31304. REGIONAL MENTAL BEHAVIORAL HEALTH BOARD -- MEMBERS -- TERMS -- APPOINTMENT. A regional mental behavioral health board for each region shall consist of seventeen (17) members as provided herein. All meetings of the regional behavioral health board shall be held in accordance with the open meeting law as provided for in chapter 23, title 67, Idaho Code. Members shall be qualified electors and shall represent comprised of the following: three (3) county commissioners or their designee; two (2) department of health and welfare employees who represent the mental behavioral health system within the region; two (2) parents of a child with a serious emotional disturbance, as defined in section 16-2403, Idaho Code, provided each parent's respective child is no older than twenty-one (21) years of age at the time of appointment; one (1) parent of a child with a substance use disorder; a law enforcement officer; three (3) adult mental health services consumer representatives, advocates or family members; one (1) mental health advocate; one (1) substance use disorder advocate; one (1) adult substance use disorder services consumer representative; one (1) family member of an adult mental health services consumer; one (1) family member of an adult substance use disorder services consumer; a private provider of mental health services within the region; a private provider of substance use disorder services within the region; a representative of the elementary or secondary public education system within the region; a representative of the juvenile justice system within the region; a representative of the adult correction system within the region; a representative of the judiciary appointed by the administrative district judge; a physician or other licensed health practitioner from within the region; and a representative of a hospital within the region; and a member of the regional advisory substance abuse authority. The consumer, parent and family representatives shall be selected from nominations submitted by mental behavioral health consumer and advocacy organizations. The board may have nonvoting members as necessary to fulfill its roles and responsibilities. The board shall meet at least twice each year, and shall annually elect a chairperson and other officers as it deems appropriate.

On the effective date of this chapter, the appointing authority in each region shall be a committee composed of the chairperson of the board of county commissioners of each of the counties within the region, the regional mental health program manager for the department of health and welfare and the regional director for the current chair of the regional mental

health board and the current chair of the regional advisory committee and, after the initial appointment of members to the regional behavioral health board, the current chair of the regional behavioral health board and one (1) representative of the department of health and welfare. The committee shall meet annually or as needed to fill vacancies on the board. The list of appointments shall be submitted to the department of health and welfare.

The appointing authority in each region shall determine if members of the regional mental health advisory board and the regional advisory committee who are serving on the effective date of this act chapter may continue to serve until the end of the current term of their appointment. or they may end all current appointments and create the board membership based upon the requirements of this section. If the appointing authority decides to allow current members of the board to serve out their current terms, appointments made after the effective date of this act chapter shall be made in a manner to achieve the representation provided in this section as soon as reasonably practical.

The term of each member of the board shall be for four (4) years; provided however, that of the members first appointed, one-third (1/3) from each region shall be appointed for a term of two (2) years; one-third (1/3) for a term of three (3) years; and one-third (1/3) for a term of four (4) years. After the membership representation required in this section is achieved, vacancies shall be filled for the unexpired term in the same manner as original appointments. Board members shall be compensated as provided for in section 59-509(b), Idaho Code, and such compensation shall be paid from the operating budget of the regional behavioral health board as resources allow.

SECTION 21. That Section 39-3134A, Idaho Code, be, and the same is hereby repealed.

SECTION 22. That Section 39-3135, Idaho Code, be, and the same is hereby repealed.

SECTION 23. That Section 39-3132, Idaho Code, be, and the same is hereby amended to read as follows:

39-31325. POWERS AND DUTIES. The regional mental behavioral health board:

(1) Shall advise the state mental behavioral health authority through and the state planning council on local mental behavioral health needs of adults and children within the region;

~~(2) Shall assist in the formulation of an operating policy for the regional service;~~

~~(3) Shall interpret the regional mental health services to the citizens and agencies of the region;~~

(4) Shall advise the state mental behavioral health authority and the state planning council of the progress, problems and proposed projects of the regional service;

~~(5) Shall collaborate with the regional advisory substance abuse authorities to develop appropriate joint programs;~~

(6) Shall promote improvements in the delivery of mental behavioral health services and coordinate and exchange information regarding mental behavioral health programs in the region;

(7) Shall identify gaps in available services including, but not limited to, services listed in sections 16-2402(3) and 39-312831, Idaho Code, and recommend service enhancements that address identified needs for consideration to the state mental behavioral health authority;

(85) ~~Shall assist the state planning council on mental health with planning for service system improvement. The state planning council shall incorporate the recommendation to the regional mental behavioral health boards into the annual report provided to the governor by June 30 of each year. This report shall also be provided to the legislature; and~~

(96) ~~May develop, or obtain proposals for, a service plan component petition for regional services for consideration by the state mental behavioral health authority;~~

(7) May accept the responsibility to develop and provide community family support and recovery support services in their region. The board must demonstrate readiness to accept this responsibility and shall not be held liable for services in which there is no funding to provide. The readiness criteria for accepting this responsibility shall be established by the planning council. The planning council shall also determine when a regional behavioral health board has complied with the readiness criteria. Community family support and recovery support services include, but are not limited to:

(a) Community consultation and education;

(b) Housing to promote and sustain the ability of individuals with behavioral health disorders to live in the community and avoid institutionalization;

(c) Employment opportunities to promote and sustain the ability of individuals with behavioral health disorders to live in the community and avoid institutionalization;

(d) Evidence-based prevention activities that reduce the burden associated with mental illness and substance use disorders; and

(e) Supportive services to promote and sustain the ability of individuals with behavioral health disorders to live in the community and avoid institutionalization including, but not limited to, peer run drop-in centers, support groups, transportation and family support services;

(8) If a regional board, after accepting the responsibility for a recovery support service, fails to successfully implement and maintain access to the service, the behavioral health authority shall, after working with the board to resolve the issue, take over responsibility for the services until the board can demonstrate its ability to regain organization and provision of the services;

(9) Shall annually provide a report to the planning council, the regional behavioral health centers and the state behavioral health authority of its progress toward building a comprehensive community family support and recovery support system that shall include performance and outcome data as defined and in a format established by the planning council; and

(10) The regional board may establish subcommittees as it determines necessary and shall, at a minimum, establish and maintain a children's mental health subcommittee.

SECTION 24. That Section 39-3136, Idaho Code, be, and the same is hereby amended to read as follows:

39-3136. FUNDS. The financial support for the regional mental behavioral health services centers shall be furnished by state appropriations and by whatever federal funds are available in an identifiable section within the mental behavioral health program budgets. Mental Behavioral health services which that are financed or contracted by local or federal sources may be incorporated into the regional mental behavioral health services centers subject to the approval of the state mental behavioral health authority.

SECTION 25. That Section 39-3137, Idaho Code, be, and the same is hereby amended to read as follows:

39-3137. SERVICES TO BE NONDISCRIMINATORY -- FEES. No regional ~~mental behavioral health service center or regional behavioral health board~~ shall refuse service to any person because of race, color or religion or because of ability or inability to pay. Persons receiving services will be charged fees in keeping with a fee schedule prepared by the state ~~mental behavioral health authority.~~ Fees collected by the regional behavioral health center shall become part of the operating its budget and may be utilized by at the direction of the state mental behavioral health authority. Fees collected by the regional behavioral board shall become part of its budget and utilized at the direction of the executive board or governing entity.

SECTION 26. That Section 39-3138, Idaho Code, be, and the same is hereby amended to read as follows:

39-3138. EXISTING STATE-COUNTY CONTRACTS FOR SERVICES. No section of this act chapter shall invalidate, or prohibit the continuance of, existing state-county contracts for the delivery of ~~mental behavioral health services~~ within the participating counties.

SECTION 27. That Section 39-3139, Idaho Code, be, and the same is hereby amended to read as follows:

39-3139. TITLE OF ACT CHAPTER. This act chapter may be cited as the "Regional Mental Behavioral Health Services Act."

SECTION 28. That Chapter 31, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3140, Idaho Code, and to read as follows:

39-3140. DEPARTMENT RULES. The director is authorized to promulgate rules necessary to implement the provisions of this chapter that are consistent with its provision.

Approved March 11, 2014

CHAPTER 44
(S.B. No. 1261)

AN ACT

RELATING TO NURSES; AMENDING SECTION 54-1401, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CRIMINAL HISTORY CHECKS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-1401, Idaho Code, be, and the same is hereby amended to read as follows:

54-1401. PURPOSE -- LICENSE REQUIRED -- REPRESENTATION TO THE PUBLIC. In order to safeguard the public health, safety and welfare, it is in the public interest to regulate and control nursing in the state of Idaho, to promote quality health care services, to prohibit unqualified and dishonest persons from practicing nursing, and to protect against acts or conduct which may endanger the health and safety of the public.

(1) License required. It shall be unlawful for any person to practice nursing or offer to practice nursing unless that person is duly licensed pursuant to this act chapter.

(2) Representation to the public. Only a person who holds a valid and current license to practice registered nursing in this state or a party state pursuant to sections 54-1408 and 54-1418, Idaho Code, may use the title "nurse," "registered nurse," "graduate nurse" or "professional nurse" or the abbreviation "R.N." or any other designations, titles or abbreviations to indicate that the person is practicing nursing in this state. Only a person who holds a valid and current license to practice practical nursing in this state or a party state pursuant to sections 54-1407 and 54-1418, Idaho Code, may use the title "nurse," "licensed practical nurse," or the abbreviation "L.P.N." or any other designations, titles or abbreviations to indicate that the person is practicing nursing in this state.

(3) ~~On and after July 1, 2005, a~~All applicants for original licensure and for license reinstatement ~~will be required to~~ shall submit to a fingerprint-based criminal history check of both the Idaho central criminal database and the federal bureau of investigation criminal history database. ~~Each All such applicants for original licensure and for license reinstatement must~~ shall submit a full set of the applicant's their fingerprints and any relevant fees directly to the Idaho board of nursing for forwarding to the appropriate law enforcement agency for processing. Criminal background reports received by the board from the Idaho state police and the federal bureau of investigation identification division shall be used only for this purpose licensing decisions and handled and disposed of in a manner consistent with requirements imposed by the Idaho state police and the federal bureau of investigation.

Approved March 11, 2014

CHAPTER 45
(S.B. No. 1263)

AN ACT

RELATING TO VITAL STATISTICS; AMENDING SECTION 39-241, IDAHO CODE, TO REVISE A DEFINITION AND TO CLARIFY THE ROLE OF AN ADVANCED PRACTICE REGISTERED NURSE; AMENDING SECTION 39-260, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 39-268, IDAHO CODE, TO REVISE TERMINOLOGY.

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

SECTION 1. That Section 39-241, Idaho Code, be, and the same is hereby amended to read as follows:

39-241. DEFINITIONS. For the purposes of this chapter and this chapter only, the following terms shall be construed to have the meanings hereinafter set forth:

(1) "Adoptive parent" means an adult who has become a parent of a child through the legal process of adoption.

(2) "Advanced practice professional registered nurse" means a professional registered nurse licensed in this state who has gained additional specialized knowledge, skills and experience ~~through a nationally accredited program of study and is authorized to perform advanced nursing practice as defined in section 54-1402, Idaho Code, and includes the following four (4) roles: certified nurse midwives and midwife; clinical nurse specialist; certified nurse practitioners; and certified registered nurse~~

anesthetist as defined in by the same section applicable board of nursing rule.

- (3) "Board" means the Idaho state board of health and welfare.
- (4) "Certified copy" means the reproduction of an original vital record by typewritten, photographic or electronic means. Such reproductions, when certified by the state registrar, shall be used as the original.
- (5) "Consent" means a verified written statement which has been notarized.
- (6) "Dead body" means a lifeless human body or such parts of the human body or the bones thereof from the state of which it reasonably may be concluded that death occurred.
- (7) "Director" means the director of the department of health and welfare.
- (8) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such expulsion or extraction, the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.
 - (a) "Induced termination of pregnancy (induced abortion)" means the purposeful interruption of pregnancy with an intention other than to produce a live-born infant or to remove a dead fetus and which does not result in a live birth.
 - (b) "Spontaneous fetal death" means the expulsion or extraction of a product of human conception resulting in other than a live birth and which is not an induced termination of pregnancy.
- (9) "Identifying information" includes the following information:
 - (a) The name of the qualified adoptee before placement in adoption;
 - (b) The name and address of each qualified birthparent as it appears in birth records;
 - (c) The current name, address and telephone number of the qualified adult adoptee; and
 - (d) The current name, address and telephone number of each qualified birthparent.
- (10) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes, or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached. Heartbeats are to be distinguished from transient cardiac contractions; respirations are to be distinguished from fleeting respiratory efforts or gasps.
- (11) "Person in charge of interment" means any person who places or causes to be placed a stillborn fetus or dead body or the ashes of the same, after cremation, in a grave, vault, urn, or other receptacle, or otherwise disposes thereof.
- (12) "Physician" means a person legally authorized to practice medicine and surgery, osteopathic medicine and surgery or osteopathic medicine in this state as defined in section 54-1803, Idaho Code.
- (13) "Physician assistant" means any person who is a graduate of an acceptable training program and who is otherwise qualified to render patient services as defined in section 54-1803, Idaho Code.
- (14) "Qualified adult adoptee" means an adopted person eighteen (18) years of age or older who was born in Idaho.
- (15) "Qualified adult birth sibling" means a genetic, biological, or natural brother or sister or half-brother or half-sister, eighteen (18) years of age or older.
- (16) "Qualified birthparent" means a genetic, biological, or natural parent whose rights were voluntarily or involuntarily terminated by a court

or otherwise. "Birthparent" includes a man who is the parent of a child prior to the termination of parental rights.

(17) "Record" means the original certificate of an event and any replacement thereof filed for record by virtue of authority contained in this chapter, as well as instruments of any nature provided by this chapter as a means of effecting replacement of certificates.

(18) "Registrar" means the state registrar of vital statistics or a designated representative.

(19) "Relative" includes only an individual's spouse, birthparent, adoptive parent, sibling, or child who is eighteen (18) years of age or older.

(20) "Stillbirth" means a spontaneous fetal death of twenty (20) completed weeks gestation or more, based on a clinical estimate of gestation, or a weight of three hundred fifty (350) grams (twelve and thirty-five hundredths (12.35) ounces) or more.

(21) "Vital statistics" includes the registration, preparation, transcription, collection, compilation and preservation of data pertaining to births, adoptions, legitimations, deaths, stillbirths, induced terminations of pregnancy, marital status and data incidental thereto.

(22) "Voluntary adoption registry" or "registry" means a place where eligible persons, as described in section 39-259A, Idaho Code, may indicate their willingness to have their identity and whereabouts disclosed to each other under conditions specified in section 39-259A, Idaho Code.

SECTION 2. That Section 39-260, Idaho Code, be, and the same is hereby amended to read as follows:

39-260. REGISTRATION OF DEATHS AND STILLBIRTHS. (1) A certificate of each death which occurs in this state shall be filed with the local registrar of the district in which the death occurs, or as otherwise directed by the state registrar, within five (5) days after the occurrence. However, the board shall, by rule and upon such conditions as it may prescribe to assure compliance with the purposes of the vital statistics act, provide for the filing of death certificates without medical certifications of cause of death in cases in which compliance with the applicable prescribed period would result in undue hardship; but provided, however, that medical certifications of cause of death shall be provided by the certifying physician, physician assistant, advanced practice professional registered nurse or coroner to the vital statistics unit within fifteen (15) days from the filing of the death certificate. No certificate shall be deemed complete until every item of information required shall have been provided or its omission satisfactorily accounted for. When death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in this state, the death shall be registered in this state and the place where the body is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international airspace or in a foreign country or its airspace and the body is first removed from the conveyance in this state, the death shall be registered in this state but the certificate shall show the actual place of death insofar as can be determined. If the place of death is unknown but the dead body is found in this state, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation.

The person in charge of interment or of removal of the body from the district shall be responsible for obtaining and filing the certificate. Said person shall obtain the required information from the following persons, over their respective signatures:

(a) Personal data shall be supplied by the person best qualified to supply them; and

(b) Except as otherwise provided, medical data shall be supplied by the physician, physician assistant or advanced practice professional registered nurse who attended the deceased during the last illness, who shall certify to the cause of death according to his best knowledge, information and belief within seventy-two (72) hours from time of death. In the absence of the attending physician, physician assistant or advanced practice professional registered nurse or with said person's approval the certificate may be completed and signed by said person's associate, who must be a physician, physician assistant or advanced practice professional registered nurse, the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, provided such individual has access to the medical history of the case, views the deceased at or after death, and death is due to natural causes.

(2) The person in charge of interment or of removal of the body from the district shall refer the following cases to the coroner who shall make an immediate investigation, supply the necessary medical data, and certify to the cause of death:

(a) When no physician, physician assistant or advanced practice professional registered nurse was in attendance during the last illness of the deceased;

(b) When the circumstances suggest that the death occurred as a result of other than natural causes; or

(c) When death is due to natural causes and the physician, physician assistant or advanced practice professional registered nurse who attended the deceased during the last illness or said person's designated associate who must be a physician, physician assistant or advanced practice professional registered nurse, is not available or is physically incapable of signing.

(3) When a death is presumed to have occurred within this state but the body cannot be located, a death certificate may be prepared by the state registrar upon receipt of an order of a court of record of this state, which shall include the finding of facts required to complete the death certificate. Such a death certificate shall be marked "presumptive" and shall show on its face the date of registration and shall identify the court and the date of decree.

(4) Each stillbirth, defined as a spontaneous fetal death of twenty (20) completed weeks gestation or more, based on a clinical estimate of gestation, or a weight of three hundred fifty (350) grams (twelve and thirty-five hundredths (12.35) ounces) or more, which occurs in this state shall be registered on a certificate of stillbirth within five (5) days after delivery with the local registrar of the district in which the stillbirth occurred. All induced terminations of pregnancy shall be reported in the manner prescribed in section 39-261, Idaho Code, and shall not be reported as stillbirths. No certificate shall be deemed complete until every item of information required shall have been provided or its omission satisfactorily accounted for.

(a) When a stillbirth occurs in an institution, the person in charge of the institution or a designated representative shall prepare the certificate, obtain the signature of the physician, physician assistant or advanced practice professional registered nurse in attendance, except as otherwise provided in subsection (5) of this section, who shall provide the medical data, and forward the certificate to the mortician or person acting as such. In the absence of the attending physician, physician assistant or advanced practice professional registered nurse or with said person's approval the certificate may be completed and signed by said person's associate, who must be a physician, physi-

cian assistant or advanced practice professional registered nurse, the chief medical officer of the institution in which the stillbirth occurred, or the physician who performed an autopsy on the stillborn fetus, provided such individual has access to the medical history of the case and views the fetus at or after stillbirth. The mortician or person acting as such shall provide the disposition information and file the certificate with the local registrar.

(b) When a stillbirth occurs outside an institution, the mortician or person acting as such shall complete the certificate, obtain the medical data from and signature of the attendant at the stillbirth, except as otherwise provided in subsection (5) of this section, and file the certificate. If the attendant at or immediately after the stillbirth is not a physician, physician assistant or advanced practice professional registered nurse, the coroner shall investigate and sign the certificate of stillbirth.

(c) When a stillbirth occurs in a moving conveyance in the United States and the stillborn fetus is first removed from the conveyance in this state, the stillbirth shall be registered in this state and the place where the stillborn fetus is first removed shall be considered the place of stillbirth. When a stillbirth occurs in a moving conveyance while in international airspace or in a foreign country or its airspace and the stillborn fetus is first removed from the conveyance in this state, the stillbirth shall be registered in this state but the certificate shall show the actual place of stillbirth insofar as can be determined.

(d) When a stillborn fetus is found in this state and the place of stillbirth is unknown, it shall be reported in this state. The place where the stillborn fetus was found shall be considered the place of stillbirth.

(e) The name of the father shall be entered on the certificate of stillbirth as provided by section 39-255, Idaho Code.

(5) The person responsible for the preparation or completion of the stillbirth certificate as stated in subsections (4) (a) and (b) of this section shall refer the following cases to the coroner who shall make an immediate investigation, supply the necessary medical data and certify to the cause of stillbirth:

(a) When the circumstances suggest that the stillbirth occurred as a result of other than natural causes, excepting legally induced abortions, as defined by section 39-241, Idaho Code; or

(b) When death is due to natural causes and the physician, physician assistant or advanced practice professional registered nurse in attendance at or immediately after the stillbirth or said person's designated associate is not available or is physically incapable of signing.

SECTION 3. That Section 39-268, Idaho Code, be, and the same is hereby amended to read as follows:

39-268. AUTHORIZATION FOR FINAL DISPOSITION. (1) The mortician or person acting as such who first assumes possession of a dead body or stillborn fetus shall make a written report to the registrar of the district in which death or stillbirth occurred or in which the body or stillborn fetus was found within twenty-four (24) hours after taking possession of the body or stillborn fetus, on a form prescribed and furnished by the state registrar and in accordance with rules promulgated by the board. Except as specified in subsection (2) of this section, the written report shall serve as permit to transport, bury or entomb the body or stillborn fetus within this state, provided that the mortician or person acting as such shall certify that the physician, physician assistant or advanced practice professional registered nurse in charge of the patient's care for the illness or condition

which resulted in death or stillbirth has been contacted and has affirmatively stated that said physician, physician assistant or advanced practice professional registered nurse or the designated associate according to section 39-260(1)(b) or (4)(a), Idaho Code, will sign the certificate of death or stillbirth.

(2) The written report as specified in subsection (1) of this section shall not serve as a permit to:

- (a) Remove a body or stillborn fetus from this state;
- (b) Cremate the body or stillborn fetus; or
- (c) Make disposal or disposition of any body or stillborn fetus in any manner when inquiry is required under chapter 43, title 19, Idaho Code, or section 39-260(2) or (5), Idaho Code.

(3) In accordance with the provisions of subsection (2) of this section, the mortician or person acting as such who first assumes possession of a dead body or stillborn fetus shall obtain an authorization for final disposition prior to final disposal or removal from the state of the body or stillborn fetus. The physician, physician assistant, advanced practice professional registered nurse or coroner responsible for signing the death or stillbirth certificate shall authorize final disposition of the body or stillborn fetus, on a form prescribed and furnished by the state registrar. If the body is to be cremated, the coroner must also give additional authorization. In the case of stillbirths, the hospital may dispose of the stillborn fetus if the parent(s) so requests; authorization from the coroner is not necessary unless the coroner is responsible for signing the certificate of stillbirth.

(4) When a dead body or stillborn fetus is transported into the state, a permit issued in accordance with the law of the state in which the death or stillbirth occurred or in which the body or stillborn fetus was found shall authorize the transportation and final disposition within the state of Idaho.

(5) A permit for disposal shall not be required in the case of a dead fetus of less than twenty (20) weeks gestation and less than three hundred fifty (350) grams or twelve and thirty-five hundredths (12.35) ounces where disposal of the fetal remains is made within the institution where the delivery of the dead fetus occurred.

Approved March 11, 2014

CHAPTER 46
(S.B. No. 1266)

AN ACT

RELATING TO BEES; AMENDING SECTION 22-2510, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM SPECIFIED FEES, TO PROVIDE FOR REGISTRATION AND TO SPECIFY INFORMATION TO BE SUPPLIED; AND AMENDING SECTION 22-2809, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM SPECIFIED FEES AND TAXES, TO PROVIDE FOR REGISTRATION AND TO SPECIFY INFORMATION TO BE SUPPLIED.

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

SECTION 1. That Section 22-2510, Idaho Code, be, and the same is hereby amended to read as follows:

22-2510. REGISTRATION -- ASSESSMENT -- COLLECTION -- PROCEEDS. (1) There is hereby levied upon each beekeeper maintaining colonies within the state of Idaho, or desiring to move bees into the state, an annual registration fee of ten dollars (\$10.00) for up to fifty (50) colonies. Each additional colony in excess of the first fifty (50) colonies shall be

assessed at the rate of ten cents (10¢) per colony. Hobbyist beekeepers are exempt from registration under this section.

(2) The registration fee assessed for colonies in excess of fifty (50) colonies may be increased to not more than twenty cents (20¢) per hive or colony per year, if approved by a majority of the beekeepers voting in a referendum held for the purpose of determining whether such levy of the registration fee shall or shall not be changed. If the levy of the registration fee is changed, the levy of the registration fee will continue annually at the changed rate until again changed by another referendum. Any resident of Idaho who is registered under this chapter as an Idaho beekeeper with the Idaho department of agriculture may vote at such referendum. Any referendum to be held for the purpose of changing the levy of such registration fee shall be held at the annual meeting of the Idaho honey industry association or any successor organization to this group.

(3) Said registration fee shall be a lien upon all apicultural products, equipment, bees and property of the person owning or controlling such bees and shall be prior to all other liens or encumbrances except liens which are declared prior by operation of the statutes of this state.

(4) Hives brought into the state for indoor winter storage prior to moving to another state for pollination or honey production are exempt from paying fees as provided for in this section. Provided however, registration shall be required and a minimum of the following information shall be supplied: location of the storage, approximate dates the hive or hives will be brought into and leave the state, name, address and telephone number of the owner of the bees, and name, address and telephone number of an in-state contact who will have knowledge of the hive or hives being stored in the state.

SECTION 2. That Section 22-2809, Idaho Code, be, and the same is hereby amended to read as follows:

22-2809. LEVY AND COLLECTION OF TAXES -- CHANGE OF TAX BY REFERENDUM -- VIOLATIONS -- PENALTY. (a₁) There is hereby levied and imposed upon each colony or hive of bees within the state of Idaho on July 1 of each year a continuing annual tax of five cents (5¢) per hive or colony of bees beginning in the year 1970 for the purpose of carrying out the provisions of this chapter. Hobbyist beekeepers, as defined in chapter 25, title 22, Idaho Code, are exempt from taxation under this section. Provided however, that any hobbyist beekeeper who desires to support the efforts of the commission, as set forth in section 22-2807, Idaho Code, and desires to be included in registration lists distributed as authorized under section 22-2815, Idaho Code, may register with the commission for that purpose by remitting an annual registration fee of ten dollars (\$10.00).

(b₂) The tax may be decreased to not less than three cents (3¢) per hive or colony per year or it may be increased to not more than ten cents (10¢) per hive or colony per year, if approved by a majority of the beekeepers voting in a referendum held for the purpose of determining whether such levy of the tax shall or shall not be changed. If the levy of the tax is changed, the levy of the tax will continue annually at the changed rate until again changed by another referendum. Any resident of Idaho who is a registered Idaho beekeeper with the department of agriculture may vote at such referendum. Any referendum held for the purpose of changing the levy of such tax shall be held at the annual meeting of the Idaho honey industry association or any successor organization to this group.

(e₃) Notice of the tax provided for in this section shall be mailed no later than June 1 and the tax shall be due and payable on or before July 1 of each year, and it shall be collected by the Idaho department of agriculture and shall forthwith be paid over by the Idaho department of agriculture to the Idaho honey advertising fund.

(d4) Said tax shall be a lien upon all apicultural products, equipment, bees and property of the person owning or controlling such bees and shall be prior to all other liens or encumbrances except liens which are declared prior by operation of the statutes of this state.

(5) Hives brought into the state for indoor winter storage prior to moving to another state for pollination or honey production are exempt from paying fees and taxes as provided for in this section. Provided however, registration shall be required and a minimum of the following information shall be supplied: location of the storage, approximate dates the hive or hives will be brought into and leave the state, name, address and telephone number of the owner of the bees, and name, address and telephone number of an in-state contact who will have knowledge of the hive or hives being stored in the state.

Approved March 11, 2014

CHAPTER 47
(S.B. No. 1267)

AN ACT

RELATING TO THE EQUINE EDUCATION ACCOUNT; AMENDING SECTION 57-818, IDAHO CODE, TO REQUIRE A SPECIFIED APPROPRIATION AND USE OF MONEYS IN THE EQUINE EDUCATION ACCOUNT, TO REMOVE CERTAIN CONDITIONS OF EXPENDITURE, TO REMOVE PROVISIONS RELATING TO THE USE OF BALANCES AT THE END OF THE FISCAL YEAR, TO PROVIDE THAT UPDATES OF THE IDAHO HORSE CENSUS SURVEY SHALL BE INITIATED BY THE IDAHO HORSE COUNCIL, TO PROVIDE FOR A NEGOTIATED CONTRACT, TO PROVIDE THAT THE UNIVERSITY OF IDAHO SOCIAL SCIENCE RESEARCH UNIT WILL INVOICE THE ACCOUNT FOR DISTRIBUTION AND TO PROVIDE FOR USE OF UNEXPENDED APPROPRIATION BALANCES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 57-818, Idaho Code, be, and the same is hereby amended to read as follows:

57-818. EQUINE EDUCATION ACCOUNT. There is hereby created in the state treasury the equine education account. Moneys in the account may shall be appropriated only to the university of Idaho ~~for its veterinary science program to be used specifically to enhance and forward the work conducted at the northwest equine reproduction laboratory~~ social science research unit for the purpose of funding the Idaho horse census survey, and as provided for in this section. ~~In order for appropriated moneys to be expended, such moneys must be matched on a one-to-one match basis by contributions from private sources. Any unencumbered or unexpended balances of appropriations at the end of a fiscal year shall be transferred to the public school income fund by the state controller~~ Each periodic update of the survey shall be initiated by the Idaho horse council and a negotiated contract agreed upon between the university of Idaho social science research unit and the Idaho horse council. The social science research unit will invoice the equine education account for distribution. Any unexpended appropriation balances after contractual obligations are satisfied may be expended on education or research projects by the university of Idaho as agreed upon by the Idaho horse council.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 11, 2014

CHAPTER 48
(S.B. No. 1268)

AN ACT

RELATING TO ANIMALS; AMENDING CHAPTER 2, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-207C, IDAHO CODE, TO PROVIDE THAT CERTAIN BEEF BULLS SHALL BE TESTED ANNUALLY FOR TRICHOMONIASIS.

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

SECTION 1. That Chapter 2, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-207C, Idaho Code, and to read as follows:

25-207C. TRICHOMONIASIS CONTROL AND ERADICATION. All non-virgin beef bulls not consigned to slaughter or to an approved feedlot within the state of Idaho shall be tested for trichomoniasis annually.

Approved March 11, 2014

CHAPTER 49
(S.B. No. 1291)

AN ACT

RELATING TO DENTISTS; AMENDING SECTION 54-903, IDAHO CODE, TO REVISE THE DEFINITIONS OF "DENTAL ASSISTANT," "DENTAL SPECIALIST" AND AN "EXTENDED ACCESS ORAL HEALTH CARE PROGRAM" AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-903, Idaho Code, be, and the same is hereby amended to read as follows:

54-903. GENERAL DEFINITIONS. As used in this chapter:

(1) "Association" means the Idaho state dental association and the Idaho dental hygienists' association.

(2) "Board" means the state board of dentistry.

(3) "Conviction" or "convicted" means a finding of guilt by a judge or jury, an entry of a guilty plea by a defendant and its acceptance by the court, a forfeiture of a bail bond or collateral deposited to secure a defendant's appearance, a judgment of conviction, a suspended sentence, probation, or a withheld judgment.

(4) "Dental assistant" is a person who need not be licensed under this chapter, but who is regularly employed by a dentist at his a dental office, who works under the a dentist's supervision, and is adequately trained and qualified according to standards established by the board to perform the dental services permitted to be performed by assistants by this chapter and applicable rules of the board.

(5) "Dental hygienist" is a person both qualified and licensed by the laws of Idaho to practice dental hygiene.

(6) "Dental specialist" is a dentist who limits his practice to a specialty recognized by the American dental association, who has graduated from a board-approved postgraduate program in his the dentist's specialty and is a person both qualified and licensed by the laws of Idaho to practice a dental specialty.

(7) "Dentist" is a person both qualified and licensed by the laws of Idaho to practice dentistry.

(8) "Direct supervision" is supervision of a dental assistant or dental hygienist requiring that a dentist diagnose the condition to be treated, that a dentist authorize the procedure to be performed, that a dentist remain in the dental office while the procedure is performed, and that before dismissal of the patient, a dentist approves the work performed by the dental assistant or dental hygienist.

(9) "Extended access oral health care program" means and includes:

(a) Ddental and dental hygiene treatment and services provided as part of a program conducted by or through a ~~local~~ school district, county, state or federal agency, hospital, long-term care facility, public health district, dental or dental hygiene school, tribal clinic, or migrant federally qualified health center; or

(b) ~~such other~~ Oral health care programs approved on an annual basis by the board and conducted by or through a nonprofit public or private entity, recognized under organized in accordance with section 501(c) (3) or 501(c) (4) of the federal Internal Revenue Code, to that provide free or reduced fee dental and or dental hygiene services to persons who, due to age, infirmity, indigence, or disability or other similar reason, are may be unable to receive regular dental and dental hygiene treatment in a private office. The board may require reapproval of the oral health care programs on an annual basis or at such other times as may be deemed by the board to be necessary or appropriate.

(10) "General supervision" is supervision of a dental assistant or dental hygienist requiring that a dentist authorize the procedure which is carried out, but not requiring that a dentist be in the office when the authorized procedure is performed.

(11) "Indirect supervision" is supervision of a dental assistant or dental hygienist requiring that a dentist authorize a procedure and that a dentist be in the dental office while the procedure is performed by the assistant or hygienist.

Approved March 11, 2014

CHAPTER 50
(S.B. No. 1295)

AN ACT

RELATING TO IMMUNIZATION; REPEALING SECTION 2, CHAPTER 134, LAWS OF 2010, RELATING TO THE SUNSET PROVISION OF THE IDAHO CHILDHOOD IMMUNIZATION POLICY COMMISSION.

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

SECTION 1. That Section 2, Chapter 134, Laws of 2010, be, and the same is hereby repealed.

Approved March 11, 2014

CHAPTER 51
(S.B. No. 1339)

AN ACT

RELATING TO LICENSE PLATES; AMENDING SECTION 49-403A, IDAHO CODE, TO PROVIDE FOR A DISABILITY SYMBOL ON A PURPLE HEART RECIPIENT LICENSE PLATE; AND AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-403C, IDAHO CODE, TO ESTABLISH A PURPLE HEART RECIPIENT MOTOR-CYCLE LICENSE PLATE PROGRAM.

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

SECTION 1. That Section 49-403A, Idaho Code, be, and the same is hereby amended to read as follows:

49-403A. PURPLE HEART RECIPIENT -- LICENSE PLATES. (1) Purple heart recipient license plates are available to any applicant who is a veteran or an active or retired member of any of the armed forces of the United States, reserve forces or Idaho national guard, and who furnishes proof of entitlement by providing one (1) of the following documents:

- (a) A copy of form DD214 or equivalent document showing an award of the purple heart medal;
- (b) A copy of the certificate presented with the medal; or
- (c) A copy of the military order describing the award of the medal to the applicant.

(2) In addition to the regular registration fee, the applicant shall be charged the plate fee required in section 49-450, Idaho Code. Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the registration shall expire, but the purple heart recipient may transfer his plates to another vehicle upon payment of the required transfer fees. He may only display the plates after receipt of new registration from the department. A purple heart recipient shall not register more than two (2) vehicles under the provisions of this section. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds, nor to any vehicle registered under section 49-434(5), Idaho Code.

(3) Purple heart recipient license plates may be retained and displayed on vehicles owned by the surviving spouse of a deceased purple heart recipient. In addition, the surviving spouse of a deceased purple heart recipient is eligible to reapply for and shall be issued purple heart recipient license plates if the deceased purple heart recipient died on or after January 1 of the five (5) years preceding the date of reapplication for the plates. Such plates shall be used on a vehicle owned by the surviving spouse.

(4) The purple heart recipient license plates shall be of a color and design acceptable to the military order of the purple heart association and approved by the department, utilizing a numbering system as determined by the department.

(5) Effective January 1, 2015, for those purple heart recipients who are listed as an owner of the vehicle who also qualify as disabled pursuant to section 49-410, Idaho Code, the international accessible symbol will also appear on the purple heart license plates. Such requirements must be met upon application for the license plates. Those plates with the disability symbol shall be nontransferable to a surviving spouse, unless the requirements of section 49-410, Idaho Code, can be met by the spouse.

SECTION 2. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-403C, Idaho Code, and to read as follows:

49-403C. PURPLE HEART RECIPIENT MOTORCYCLE LICENSE PLATE. (1) On and after January 1, 2015, any person who is the owner of a motorcycle registered under the provisions of section 49-402, Idaho Code, may apply for and upon department approval receive a purple heart motorcycle license plate in lieu of a regular motorcycle license plate.

(2) Purple heart recipient license plates are available to any applicant who is a veteran or an active or retired member of any of the armed forces of the United States, reserve forces or Idaho national guard, and who furnishes proof of entitlement by providing one (1) of the following documents:

- (a) A copy of form DD214 or equivalent document showing an award of the purple heart medal;
- (b) A copy of the certificate presented with the medal; or
- (c) A copy of the military order describing the award of the medal to the applicant.

(3) In addition to the regular registration fee, the applicant shall be charged the plate fee required in section 49-450, Idaho Code. Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the registration shall expire, but the purple heart recipient may transfer his plates to another vehicle upon payment of the required transfer fees. He may only display the plates after receipt of new registration from the department. A purple heart recipient shall not register more than two (2) vehicles under the provisions of this section.

(4) Purple heart recipient license plates may be retained and displayed on vehicles owned by the surviving spouse of a deceased purple heart recipient. In addition, the surviving spouse of a deceased purple heart recipient is eligible to reapply for and shall be issued purple heart recipient motorcycle license plates if the deceased purple heart recipient died on or after January 1 of the five (5) years preceding the date of reapplication for the plates. Such plates shall be used on a motorcycle owned by the surviving spouse.

(5) The purple heart recipient motorcycle license plates shall be of a color and design acceptable to the military order of the purple heart association and approved by the department, utilizing a numbering system as determined by the department.

(6) For those purple heart recipients who are listed as an owner on a motorcycle who also qualify as disabled pursuant to section 49-410, Idaho Code, the international accessible symbol will also appear on the purple heart motorcycle license plates. Such requirements must be met upon application for the motorcycle license plates. Those plates with the disability symbol shall be nontransferable to a surviving spouse, unless the requirements of section 49-410, Idaho Code, can be met by the spouse.

Approved March 11, 2014

CHAPTER 52
(H.B. No. 353)

AN ACT

RELATING TO THE CHILDREN'S TRUST FUND; AMENDING SECTION 39-6001, IDAHO CODE, TO REMOVE REFERENCE TO APPOINTMENT OF THE INITIAL BOARD MEMBERS AND TO REVISE PROVISIONS RELATING TO SERVICE AND REMOVAL OF BOARD MEMBERS; AMENDING SECTION 39-6002, IDAHO CODE, TO AUTHORIZE EXPANSION OF THE BOARD'S ABILITY TO CARRY OUT THE PURPOSE OF THE CHILDREN'S TRUST FUND, TO AUTHORIZE THE EMPLOYMENT OF AN EXECUTIVE DIRECTOR, TO AUTHORIZE THE BOARD TO CONTRACT FOR SERVICES DEEMED NECESSARY, TO REVISE TERMINOLOGY RELATED TO RULEMAKING AND TO AUTHORIZE THE BOARD TO SOLICIT AND ACCEPT GRANTS, DONATIONS, GIFTS AND OTHER MONEYS; AMENDING SECTION 39-6003,

IDAHO CODE, TO REVISE A PROVISION RELATING TO MONEYS APPROPRIATED BY THE LEGISLATURE USED FOR SALARIES AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 39-6007, IDAHO CODE, TO PROVIDE THAT OTHER MONEYS FROM OUTSIDE SOURCES SHALL BE INCLUDED IN THE CHILDREN'S TRUST FUND AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 39-6001, Idaho Code, be, and the same is hereby amended to read as follows:

39-6001. CHILDREN'S TRUST FUND BOARD -- CREATION. (1) There is hereby created within the department of health and welfare a children's trust fund and a children's trust fund board to administer the children's trust fund.

(2) The children's trust fund board shall consist of a chairperson and nine (9) other members as follows:

(a) The chairperson and six (6) other members of the board shall be appointed by the governor and shall be selected for their interest and expertise in the prevention of child abuse. There shall be one (1) board member appointed from each of the seven (7) judicial districts of the state as enumerated in chapter 8, title 1, Idaho Code. Members shall be appointed to serve for three (3) year terms ~~except that the chairperson and three (3) other members shall initially serve for four (4) years.~~ Vacancies shall be filled for any unexpired term by appointment in the same manner as the original appointments were made.

(b) The superintendent of public instruction, the attorney general, and the director of the department of health and welfare or their designees shall be members and shall serve as voting members of the children's trust fund board.

(3) A quorum of the children's trust fund board shall consist of a majority of its members which quorum must be present in order to conduct any business.

(4) The chairperson of the children's trust fund board shall have no vote except in the event of a tie vote of a quorum of the members of the board.

(5) Board members shall be compensated as provided in section 59-509(b), Idaho Code.

(6) Members of the children's trust fund board shall serve until a successor has been appointed but may be removed by the governor appointing official for misconduct or failure to carry out the duties provided in this chapter.

SECTION 2. That Section 39-6002, Idaho Code, be, and the same is hereby amended to read as follows:

39-6002. CHILDREN'S TRUST FUND BOARD -- POWERS AND DUTIES. To carry out the purposes of this chapter, the children's trust fund board may:

(1) Independently, in collaborative relationships or partnerships, cContract with public or private nonprofit organizations, agencies, schools or with qualified individuals, for the establishment of community-based educational and service programs and initiatives designed to reduce or prevent the occurrence of child abuse and neglect.

(a) Each contract entered into by the board shall contain a provision for the evaluation of services provided under the contract. Contracts for services to prevent child abuse and child neglect may be awarded to new programs, existing programs, initiatives, and to demonstration projects.

(b) Continuation of contracts shall be based upon goal attainment.

(2) Facilitate the exchange of information between groups concerned with families and children.

(3) Consult with state departments, agencies, commissions and boards to help determine the probable effectiveness, fiscal soundness, and need for proposed educational and service programs for the prevention of child abuse and neglect.

(4) ~~The children's trust fund board may a~~Adopt rules pursuant to chapter 52, title 67, Idaho Code, to carry out the provisions of this chapter.

(5) Employ and shall fix an executive director who shall be responsible for the performance of the administrative functions of the board and such other duties as the board may direct. The board may also employ or contract with other individuals to provide professional, clerical or other services deemed necessary by the board to effectuate the provisions of this chapter and the rules of the board, and purchase or rent necessary office space, equipment and supplies. T~~he compensation of a part-time administrator who shall be designated as the executive director of and other personnel shall be determined by the board, and who the executive director shall be exempt from the provisions of chapter 53, title 67, Idaho Code.~~

(6) Solicit and accept grants, donations, gifts and other moneys as necessary to carry out the purposes of this chapter.

SECTION 3. That Section 39-6003, Idaho Code, be, and the same is hereby amended to read as follows:

39-6003. CRITERIA FOR PROGRAMS. (1) Programs contracted for with moneys received pursuant to section 63-3067A, Idaho Code, are intended to provide prevention services. "Prevention services" means any community-based educational or service program designed to prevent or alleviate child abuse or neglect. "Prevention services" shall not include direct treatment programs.

(2) Moneys appropriated by the legislature may ~~also may~~ be used for ~~a part-time administrator~~ salaries pursuant to subsection (5) of section 39-6002, Idaho Code.

(3) The children's trust fund board shall develop policies to determine whether programs will receive renewed funding. Nothing in this chapter shall be construed to require continued funding by the state of Idaho or the children's trust fund board.

(4) The children's trust fund board shall prepare a report on its activities and the effectiveness of those activities in fostering the prevention of child abuse and neglect annually, and deliver that report to the governor and legislature each on January 15th of each year.

SECTION 4. That Section 39-6007, Idaho Code, be, and the same is hereby amended to read as follows:

39-6007. CHILDREN'S TRUST FUND -- CREATION. (1) There is hereby created in the state treasury the children's trust fund.

(2) The fund shall consist of:

(a) Moneys appropriated to the fund;

(b) Moneys as provided in section 63-3067A, Idaho Code;

(c) Donations, gifts, and grants and other moneys from any source; and

(d) Any other moneys which may hereafter be provided by law.

(3) Moneys in the fund may be expended for purposes provided in this chapter, provided that the children's trust fund advisory board is authorized to expend up to fifty percent (50%) of the moneys generated annually pursuant to section 63-3067A, Idaho Code. Interest earned on the investment of idle money in the children's trust fund shall be returned to the children's trust fund.

(4) Disbursements of moneys from the fund shall be on the authorization of the children's trust fund board or a duly authorized representative of the board.

(5) After the balance in the children's trust fund has reached two million five hundred thousand dollars (\$2,500,000), no further collections shall be received by the state tax commission, and all references to the fund shall be deleted from income tax forms.

Approved March 11, 2014

CHAPTER 53
(H.B. No. 354)

AN ACT

RELATING TO COUNSELORS AND THERAPISTS; AMENDING SECTION 54-3404, IDAHO CODE, TO GRANT THE IDAHO STATE LICENSING BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS THE POWER TO ESTABLISH BY RULE THE STANDARDS AND REQUIREMENTS FOR THE USE OF COMMUNICATION TECHNOLOGY IN THE PRACTICE OF COUNSELING AND MARRIAGE AND FAMILY THERAPY.

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

SECTION 1. That Section 54-3404, Idaho Code, be, and the same is hereby amended to read as follows:

54-3404. IDAHO STATE LICENSING BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS -- POWERS. The board shall have the following powers:

(1) To regulate the practice of professional counselors, clinical professional counselors, associate marriage and family therapists and marriage and family therapists in the state of Idaho.

(2) To pass upon the qualifications and fitness of applicants for licenses and to adopt rules requiring annual continuing education as a condition for the renewal of licenses issued under this chapter.

(3) To adopt and from time to time revise such rules as may be necessary to carry into effect the provisions of this chapter. Such rules shall include, but not be limited to, a code of ethics for professional counselors and a code of ethics for marriage and family therapists in the state, which shall be adopted in compliance with chapter 52, title 67, Idaho Code.

(4) To review the practice of professional counselors, clinical professional counselors, associate marriage and family therapists and marriage and family therapists licensed under this chapter and charged with a violation of the provisions of this chapter. This review may include the notes of the license holder and other materials related to the practice. The review will remain subject to disclosure according to chapter 3, title 9, Idaho Code, unless the written consent of the client is received by the board.

(5) To establish a peer review system whereby each license holder's practice may be reviewed to ensure continuing practice in an appropriate and ethical manner.

(6) To examine for, deny, approve, issue, revoke, suspend and renew the licenses of applicants pursuant to this chapter, and to conduct hearings in connection therewith.

(7) To conduct hearings to suspend or revoke licenses for violations of the law and rules adopted pursuant to this chapter and cause the prosecution and joinder of all such violations.

(8) In any proceeding before the board authorized by this chapter, the board or its designee may administer oaths or affirmations to witnesses appearing before it.

(9) To authorize, by written agreement, the chief of the bureau of occupational licenses as agent to act in its interest.

(10) To provide, by rule, licensed professional counselor, licensed clinical professional counselor, licensed associate marriage and family therapist and licensed marriage and family therapist specialty standards.

(11) To establish by rule the standards and requirements for the use of communication technology in the practice of counseling and marriage and family therapy, including supervision.

Approved March 11, 2014

CHAPTER 54
(H.B. No. 355)

AN ACT

RELATING TO THE SOCIAL WORK LICENSING ACT; AMENDING SECTION 54-3204, IDAHO CODE, TO GRANT THE STATE BOARD OF SOCIAL WORK EXAMINERS THE POWER TO ESTABLISH BY RULE THE STANDARDS AND REQUIREMENTS FOR THE USE OF COMMUNICATION TECHNOLOGY IN THE PRACTICE OF SOCIAL WORK.

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

SECTION 1. That Section 54-3204, Idaho Code, be, and the same is hereby amended to read as follows:

54-3204. BOARD -- POWERS AND DUTIES. The board shall have the following powers and duties:

(1) Adopt and amend rules to administer and carry out the provisions of this chapter and for the conduct of its affairs, provided that such rules shall be promulgated in accordance with the provisions of chapters 26 and 52, title 67, Idaho Code;

(2) Maintain a list of the names and addresses of all persons licensed under this chapter;

(3) At its discretion, contract with the bureau of occupational licenses for those services deemed necessary for the proper administration of this chapter;

(4) To prescribe by rule the minimum amount and kind of continuing education to be required of each social worker seeking to renew a license in the state of Idaho;

(5) To establish by rule an inactive license status;

(6) To take such action as may be necessary to enforce the provisions of this chapter and to regulate the practice of social work;

(7) To review the practice of a social worker licensed pursuant to this chapter who is the subject of a complaint regarding a potential violation of the provisions of this chapter. This review may include client records, notes of the license holder and other materials related to the practice. The review will remain subject to nondisclosure according to the provisions of chapter 3, title 9, Idaho Code, unless the written consent of the client is received by the board;

(8) To establish by rule the standards and requirements for the use of communication technology in the practice of social work, including supervision.

Approved March 11, 2014

CHAPTER 55
(H.B. No. 366)

AN ACT

RELATING TO THE NATIONAL GUARD; AMENDING SECTION 46-605, IDAHO CODE, TO REMOVE REFERENCE TO PAY OF FIFTY-FIVE DOLLARS PER DAY WHILE ON ACTIVE DUTY IN THE SERVICE OF THE STATE.

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

SECTION 1. That Section 46-605, Idaho Code, be, and the same is hereby amended to read as follows:

46-605. PAY ON ACTIVE DUTY. When the national guard or any part thereof is ordered on active duty in the service of the state, the enlisted personnel, the commissioned officers and warrant officers so ordered shall be entitled to pay of fifty-five dollars (\$55.00) per day or shall be entitled to the same pay as enlisted personnel, officers and warrant officers of like grade and length of service in the armed forces of the United States, whichever sum is greater, and they shall be entitled to the same allowances as enlisted personnel, officers and warrant officers of like grade and length of service in the armed forces of the United States. All payments of pay and allowances under this section shall be made by the adjutant general. No deductions shall be made from the pay of officers or enlisted personnel in active service of the state for dues or other financial obligations imposed by any bylaw, rules or regulations of a civil character. When lodging or meals, or both, cannot be provided by the state, the adjutant general may pay a per diem in addition to the pay and allowances. Nothing in this section shall preclude officers or enlisted personnel in active service of the state from accepting, in lieu of the pay entitlement provided above, greater pay and allowances that may be available from any other government department or agency through cooperative agreement or otherwise.

Approved March 11, 2014

CHAPTER 56
(H.B. No. 373)

AN ACT

RELATING TO THE OIL AND GAS CONSERVATION COMMISSION; AMENDING SECTION 47-317, IDAHO CODE, TO PROVIDE THAT THE OIL AND GAS CONSERVATION COMMISSION OF THE STATE OF IDAHO RESIDES WITHIN THE IDAHO DEPARTMENT OF LANDS.

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

SECTION 1. That Section 47-317, Idaho Code, be, and the same is hereby amended to read as follows:

47-317. OIL AND GAS CONSERVATION COMMISSION CREATED -- POWERS -- LIMIT ON LOCAL RESTRICTIONS -- ATTORNEY GENERAL. (1) There is hereby created an oil and gas conservation commission of the state of Idaho within the department of lands. The commission shall consist of five (5) members appointed by the governor with the advice and consent of the senate. The members shall serve at the pleasure of the governor. One (1) member shall be knowledgeable in oil and gas matters, one (1) member shall be knowledgeable in geological matters, one (1) member shall be knowledgeable in water matters, one (1) member shall be a private landowner who owns mineral rights with the surface

in a county with oil and gas activity and one (1) member shall be a private landowner who does not own mineral rights.

(2) The term of office of each member of the commission shall be four (4) years, except that upon July 1, 2013, the governor shall appoint one (1) member for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years and two (2) members for terms of four (4) years. After the initial appointment, the governor shall appoint members to serve in office for a term of four (4) years commencing on July 1. A vacancy shall be filled by appointment for the unexpired term in the same manner provided for an appointment to the full term.

(3) The commission shall annually elect a chairman and a vice chairman from their membership. Such officers shall hold their respective offices until their successors are elected. If a vacancy occurs in either office, the commission shall elect a member to fill such office for the remainder of the term.

(4) The commission shall meet at least annually and thereafter on dates set by the commission. A majority of the voting members shall constitute a quorum.

(5) The members of the commission shall be compensated as provided in section 59-509(n), Idaho Code.

(6) Unless the commission appoints another person to be the secretary of the commission, the director of the department of lands shall be the secretary of the commission.

(7) The commission may employ personnel as may be deemed necessary, prescribe their duties and fix their compensation. In the alternative, the commission may contract with the department of lands for services.

(8) The commission shall have and is hereby given jurisdiction and authority over all persons and property, public and private, necessary to enforce the provisions of this act, and shall have power and authority to make and enforce rules, regulations and orders, and do whatever may reasonably be necessary to carry out the provisions of this act. Any delegation of authority to any other state officer, board or commission to administer any and all other laws of this state relating to the conservation of oil and gas is hereby rescinded and withdrawn and such authority is hereby unqualifiedly conferred upon the commission, as herein provided. Any person, or the attorney general, on behalf of the state, may apply for a hearing before the commission, or the commission may initiate proceedings, upon any question relating to the administration of this act, and jurisdiction is hereby conferred upon the commission to hear and determine the same and enter its rule, regulation or order with respect thereto. The commission may designate hearing officers who shall have the power and authority to conduct hearings in the name of the commission at any time and place in accordance with the provisions of chapter 52, title 67, Idaho Code.

(9) It is the intent of the legislature to occupy the field of the regulation of oil and gas exploration and production with the limited exception of the exercise of planning and zoning authority granted cities and counties pursuant to chapter 65, title 67, Idaho Code.

(10) To implement the purpose of the oil and gas conservation act, and to advance the public interest in the orderly development of the state's oil and gas resources, while at the same time recognizing the responsibility of local governments to protect the public health, safety and welfare, it is herein provided that:

(a) The commission will notice the respective city or county with jurisdiction upon receipt of an application and will remit, electronically, a copy of all application materials.

(b) No ordinance, resolution, requirement or standard of a city, county or political subdivision, except a state agency with authority, shall actually or operationally prohibit the extraction of oil and gas; provided however, that extraction may be subject to reasonable

local ordinance provisions, not repugnant to law, which protect public health, public safety, public order or which prevent harm to public infrastructure or degradation of the value, use and enjoyment of private property. Any ordinance regulating extraction enacted pursuant to chapter 65, title 67, Idaho Code, shall provide for administrative permitting under conditions established by ordinance, not to exceed twenty-one (21) days, unless extended by agreement of the parties or upon good cause shown.

(c) No ordinance, resolution, requirement or standard of a city, county or political subdivision, except a state agency with authority, shall actually or operationally prohibit construction or operation of facilities and infrastructure needed for the post-extraction processing and transport of gas and oil. However, such facilities and infrastructure shall be subject to local ordinances, regulations and permitting requirements, not repugnant to law, as provided in chapter 65, title 67, Idaho Code.

(11) The commission may sue and be sued in its administration of this act in any state or federal district court in the state of Idaho having jurisdiction of the parties or of the subject matter.

(12) The attorney general shall act as the legal advisor of the commission and represent the commission in all court proceedings and in all proceedings before it, and in any proceeding to which the commission may be a party before any department of the federal government.

Approved March 11, 2014

CHAPTER 57
(H.B. No. 372)

AN ACT

RELATING TO MINERAL RIGHTS IN STATE LANDS; AMENDING SECTION 47-703A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO MOTORIZED EXPLORATION ON STATE LANDS, TO REVISE AND TO PROVIDE BOND AMOUNT PROVISIONS ASSOCIATED WITH CERTAIN RECLAMATION ACTIVITIES, TO REQUIRE OPERATOR COMPLIANCE WITH THE SURFACE MINING ACT, TO REVISE VERBIAGE, TO LIMIT BOND AMOUNTS, TO PROVIDE AN EXCEPTION TO BOND LIMITATION PROVISIONS AND TO PROVIDE CONDITIONS, TO PROVIDE A PROCEDURE FOLLOWING COMPLETION OF ALL RECLAMATION ACTIVITIES, TO PROVIDE FOR RELEASE OF THE BOND, TO PROVIDE FOR EXTENSION OF TIME FOR THE BOARD TO OBTAIN CERTAIN INFORMATION DUE TO WEATHER CONDITIONS, TO PROVIDE FOR APPEAL UPON NOTICE THAT THE BOND WILL NOT BE RELEASED, TO REVISE DEFINITIONS AND TO DEFINE A TERM; AND AMENDING SECTION 47-718, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES.

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

SECTION 1. That Section 47-703A, Idaho Code, be, and the same is hereby amended to read as follows:

47-703A. EXPLORATION ON STATE LANDS -- BOND. (1) With the exception of casual exploration as defined in ~~section 47-703A(4)(a), Idaho Code subsection (6)(a) of this section~~, prior to ~~any entry or~~ motorized exploration with motorized equipment on state lands, an operator shall first submit to the director of the department of lands, an exploration and reclamation plan and a bond in such form as prescribed by the board ~~not to exceed seven hundred and fifty dollars (\$750) per affected acre. The bond shall be in an amount determined by the board to be the estimated reasonable costs to perform the reclamation activities described in the exploration and reclamation plan in the event of the failure of the operator to complete~~

those activities, plus ten percent (10%) of such costs, and conditioned on the payment of all damages to the land and resources thereon caused by the entry and/or motorized exploration, with motorized equipment; provided, that where applicable, an operator shall also comply with the dredge and placer mining act, chapter 13, title 47, Idaho Code, and the surface mining act, chapter 15, title 47, Idaho Code, where applicable. Written approval by the board is required prior to entry for motorized exploration prior to entry.

(2) Except as provided in this subsection, no bond for exploration reclamation submitted pursuant to this chapter shall exceed two thousand five hundred dollars (\$2,500) for any given acre of affected land. The board may require a bond in excess of two thousand five hundred dollars (\$2,500) for any given acre of affected land only when the following conditions have been met:

(a) The board has determined that such bond is necessary to meet the requirements of this chapter;

(b) The board has delivered to the operator, in writing, a notice setting forth the reasons it believes such bond is necessary; and

(c) The board has conducted a hearing where the operator is allowed to give testimony to the board concerning the amount of the proposed bond. The hearing shall be held under such rules as promulgated by the board. This requirement for hearing may be waived, in writing, by the operator. Any hearing that is held shall, at the discretion of the director, extend the time up to thirty (30) days in which the board must act on a submitted plan.

(3) Weather permitting, the board shall deliver to the operator within sixty (60) days after the receipt of any exploration and reclamation plan a notice of rejection or notice of approval of said plan, as the case may be; provided, however, that if the board fails to deliver a notice of approval or notice of rejection within said time period, the plan submitted shall be deemed approved under subsection (1) of this section, and the operator may, upon furnishing a bond to the board that meets the requirements of subsection (1) of this section, commence and conduct his motorized exploration operations with motorized equipment on the lands covered by such plan as if a notice of approval of said plan had been received from the board; provided, however, that if weather conditions prevent the board from inspecting the lands to obtain information needed to approve or reject a submitted plan, it may, in writing to the operator, extend the time not to exceed thirty (30) days after weather conditions permit such inspection. Any notice of rejection issued by the director of the department of lands or his properly authorized designated officer may be appealed by the operator to the board.

(34) The operator shall reclaim the surface damaged by the entry and/or motorized exploration with motorized equipment to the approximate previous contour and condition insofar as is reasonably possible.

(5) When all reclamation activities described in the exploration and reclamation plan have been completed, the operator shall notify the board. Within thirty (30) days after the receipt of such notice, weather permitting, the board shall notify the operator as to whether or not the reclamation activities have been satisfactorily completed. Upon the determination by the board that the reclamation activities in question have been satisfactorily completed, the board shall release the bond. If weather conditions prevent the board from obtaining information needed to determine if the reclamation activities have been satisfactorily completed, it may, in writing to the operator, extend the time not to exceed thirty (30) days after weather conditions permit such inspection. Any notice issued by the director of the department of lands or his properly authorized designated officer to not release the bond may be appealed by the operator to the board.

(46) The following definitions shall apply to this chapter:

(a) "Casual exploration" means entry and/or exploration which does not appreciably disturb or damage the land or resources thereon. Casual exploration includes, but is not limited to, geochemical and/or geophysical exploration techniques, sampling with hand tools, and entry using wheeled vehicles for transportation to conduct such exploration. Exploration using suction dredges having an intake diameter of two (2) inches or less shall be considered casual exploration when operated on endowment lands in a perennial stream and authorized under. Exploration using suction dredges having an intake diameter of five (5) inches or less shall be considered casual exploration when operated in a navigable river. All suction dredging on state lands must follow the requirements of the stream protection act, chapter 38, title 42, Idaho Code.

(b) "Motorized exploration" means exploration which may appreciably disturb or damage the land or resources thereon. Motorized exploration includes, but is not limited to, drilling, trenching, dredging, or other techniques which employ the use of earth moving or other motorized equipment, seismic operations using explosives, and sampling with suction dredges having an intake diameter greater than two (2) inches when operated on endowment land in a perennial stream, and sampling with suction dredges having an intake diameter greater than five (5) inches when operated in a navigable river. When operated in an intermittent stream, suction dredges shall be considered motorized exploration regardless of the intake size.

(c) "Exploration and reclamation plan" means, for this section only, a written plan and maps with sufficient detail to accurately describe all of the activities associated with motorized exploration on state lands and the activities associated with reclamation. Reclamation activities may include, but are not limited to, regrading to resemble the original contour, plugging drill holes and revegetation. An estimate of third party reclamation costs, acceptable to the board, shall be included in the plan and will be used to determine the bond amount.

SECTION 2. That Section 47-718, Idaho Code, be, and the same is hereby amended to read as follows:

47-718. VIOLATIONS -- REMEDIES -- PENALTIES. (1) In addition to any other penalties and remedies of this chapter and at law, any person, firm, or corporation who violates any provisions of this chapter or rules adopted pursuant thereto, or who fails to perform the duties imposed thereby, or who violates any determination or order thereunder or any violation of a lease granted under this chapter, the director of the department of lands may:

(a) Proceed by legal action in the name of the state of Idaho to enjoin the violation, by temporary restraining order, preliminary injunction and/or permanent injunction.

(i) The court, or a judge thereof at chambers, if satisfied from a verified complaint or by affidavit that the alleged violation has been or is being committed, may issue a temporary restraining order, without notice or bond, enjoining the defendant, his agents, employees, contractors and assigns from further violation, or from conducting exploration or mining on the state lands affected by the violation.

(ii) The verified complaint or affidavit that the alleged violation has been or is being committed shall constitute prima facie evidence of great or irreparable injury and/or great waste sufficient to support the temporary restraining order.

(iii) The action shall thereafter proceed as in other cases for injunctions. If at the trial the violation is established, the court shall enter a decree perpetually enjoining said defendant,

his agents, employees, contractors and assigns from thereafter committing said or similar violations.

(b) Proceed by legal action in the name of the state of Idaho to obtain an order requiring the operator to promptly repair the damage and reclaim the state lands in accordance with the requirements of section 47-703A, Idaho Code, and rules adopted pursuant thereto. If thereafter the court finds that the operator is not promptly complying with such order, the court shall order the operator to immediately pay an amount determined by the department to be the anticipated cost of reasonable repair and reclamation in accordance with section 47-703A(24), Idaho Code, and rules adopted pursuant thereto.

(c) Proceed to forfeit the operator's bond required by section 47-703A(1), 47-704(6) or 47-708, Idaho Code. The board may cause to have issued and served upon the operator alleged to be committing such violation, a formal complaint which includes a statement of the manner in and the extent to which said operator is alleged to be violating the provisions of this act. Such complaint may be served by certified mail, and return receipt signed by the lessee, an officer of a corporate lessee, or the designated agent of the lessee shall constitute service. The lessee shall answer the complaint and request a hearing before a designated hearing officer within thirty (30) days from receipt of the complaint if matters asserted in the complaint are disputed. If the lessee fails to answer the complaint and request a hearing, the matters asserted in the complaint shall be deemed admitted by the lessee, and the board may proceed to forfeit the bond in the amount necessary to reclaim affected lands and pay for any outstanding royalties and related administrative costs. The director of the department of lands is empowered to issue subpoenas. The hearing shall be conducted in accordance with chapter 52, title 67, Idaho Code. The hearing officer shall enter an order in accordance with chapter 52, title 67, Idaho Code. Appeal to a district court shall be in accordance with chapter 52, title 67, Idaho Code.

(d) Cancel the lease in accordance with section 47-707, Idaho Code.

(2) In addition to the injunctive remedies of subsection (1) (a) of this section:

(a) Proceed in the first instance by legal action in the name of the state of Idaho to recover from an operator who without bond has conducted or is conducting exploration with heavy equipment on state lands, including lands between the ordinary high watermarks of navigable rivers, the cost of repairing damage to and reclaiming the affected state lands in accordance with section 47-703A(24), Idaho Code, and rules adopted pursuant thereto; or if the bond on file with the department of lands is not sufficient to adequately reclaim the affected state lands, to recover the cost in excess of the bond to reclaim the affected state lands in accordance with section 47-703A(24), Idaho Code, and rules adopted pursuant thereto.

(b) Proceed by legal action in the name of the state of Idaho to recover from an operator who has removed minerals in commercial quantities from state lands, including lands between the ordinary high watermarks of navigable rivers, in violation of the provisions of section 47-717, Idaho Code, damages in the amount of the prevailing royalty rate set by the board of land commissioners for the particular mineral removed plus interest from the date of removal at the legal rate of interest due on money judgments set by the Idaho state treasurer pursuant to section 28-22-104, Idaho Code, from the date of removal to judgment.

(3) In addition to any other penalties or injunctive remedies of this chapter, any person, firm, or corporation who violates any of the provisions of this chapter or rules adopted pursuant thereto, or who fails to perform the duties imposed by these provisions, or who violates any determination or

order promulgated pursuant to the provisions of this chapter, shall be liable to a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each day during which any provision of this chapter, rule or order has been or is being violated. All sums recovered shall be credited to the general fund.

(4) An appeal from a final judgment of the district court shall be taken in the manner provided by law for appeals in civil cases.

Approved March 11, 2014

CHAPTER 58
(H.B. No. 390)

AN ACT

RELATING TO PLATS AND VACATIONS; AMENDING SECTION 50-1301, IDAHO CODE, TO REVISE THE DEFINITION OF "SANITARY RESTRICTION."

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

SECTION 1. That Section 50-1301, Idaho Code, be, and the same is hereby amended to read as follows:

50-1301. DEFINITIONS. The following definitions shall apply to terms used in this section and sections 50-1302 through 50-1334, Idaho Code.

(1) Basis of bearing: The bearing in degrees, minutes and seconds, or equivalent, of a line between two (2) monuments or corners that serves as the reference bearing for all other lines on the survey;

(2) Easement: A right of use, falling short of ownership, and usually for a certain stated purpose;

(3) Functioning street department: A city department responsible for the maintenance, construction, repair, snow removal, sanding and traffic control of a public highway or public street system which qualifies such department to receive funds from the highway distribution account to local units of government pursuant to section 40-709, Idaho Code;

(4) Idaho coordinate system: That system of coordinates established and designated by chapter 17, title 55, Idaho Code;

(5) Land survey: Measuring the field location of corners that:

(a) Determine the boundary or boundaries common to two (2) or more owners;

(b) Retrace or establish land boundaries;

(c) Retrace or establish boundary lines of public roads, streets, alleys or trails; or

(d) Plat lands and subdivisions thereof.

(6) Monument: A physical structure or object that occupies the position of a corner;

(7) Owner: The proprietor of the land (having legal title);

(8) Plat: The drawing, map or plan of a subdivision, cemetery, townsite or other tract of land, or a replatting of such, including certifications, descriptions and approvals;

(9) Private road: A road within a subdivision plat that is not dedicated to the public and not a part of a public highway system;

(10) Public highway agency: The state transportation department, any city, county, highway district or other public agency with jurisdiction over public highway systems and public rights-of-way;

(11) Public land survey corner: Any point actually established and monumented in an original survey or resurvey that determines the boundaries of remaining public lands, or public lands patented, represented on an official plat and in the field notes thereof, accepted and approved under authority

delegated by congress to the U.S. general land office and the U.S. department of interior, bureau of land management;

(12) Public right-of-way: Any land dedicated and open to the public and under the jurisdiction of a public highway agency, where the public highway agency has no obligation to construct or maintain said right-of-way for vehicular traffic;

(13) Public street: A road, thoroughfare, alley, highway or bridge under the jurisdiction of a public highway agency;

(14) Reference point: A special monumented point that does not occupy the same geographical position as the corner itself and where the spatial relationship to the corner is known and recorded and that serves to locate the corner;

(15) Sanitary restriction: The requirement that no building or shelter which will require a water supply facility or a sewage disposal facility for people using the premises where such building or shelter is located shall be erected until written approval is first obtained from the ~~state board of health and welfare by its administrator~~ director of the department of environmental quality or his delegate approving plans and specifications either for public water and/or sewage facilities, or individual parcel water and/or sewage facilities;

(16) Street: A road, thoroughfare, alley, highway or a right-of-way which may be open for public use but is not part of a public highway system nor under the jurisdiction of a public highway agency;

(17) Subdivision: A tract of land divided into five (5) or more lots, parcels, or sites for the purpose of sale or building development, whether immediate or future; provided that this definition shall not include a bona fide division or partition of agricultural land for agricultural purposes. A bona fide division or partition of agricultural land for agricultural purposes shall mean the division of land into lots, all of which are five (5) acres or larger, and maintained as agricultural lands. Cities or counties may adopt their own definition of subdivision in lieu of this definition;

(18) Witness corner: A monumented point on a lot line or boundary line of a survey, near a corner and established in situations where it is impracticable to occupy or monument the corner.

Approved March 11, 2014

CHAPTER 59
(H.B. No. 391)

AN ACT

RELATING TO THE WASTEWATER FACILITY LOAN ACCOUNT AND THE DRINKING WATER LOAN ACCOUNT; AMENDING SECTION 39-3626, IDAHO CODE, TO AUTHORIZE THE IDAHO BOARD OF ENVIRONMENTAL QUALITY THROUGH THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO TRANSFER FUNDS BETWEEN THE WASTEWATER FACILITY LOAN ACCOUNT AND THE DRINKING WATER LOAN ACCOUNT, TO PROVIDE THAT ANY SUCH TRANSFERS SHALL BE LISTED IN THE ANNUAL INTENDED USE PLAN AND APPROVED BY THE BOARD; AMENDING SECTION 39-3629, IDAHO CODE, TO PROVIDE THAT FUND TRANSFERS FROM THE DRINKING WATER LOAN ACCOUNT MAY BE PAID INTO THE WASTEWATER FACILITY LOAN ACCOUNT; AND AMENDING SECTION 39-7603, IDAHO CODE, TO PROVIDE THAT FUND TRANSFERS FROM THE WASTEWATER FACILITY LOAN ACCOUNT MAY BE PAID INTO THE DRINKING WATER LOAN ACCOUNT.

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

SECTION 1. That Section 39-3626, Idaho Code, be, and the same is hereby amended to read as follows:

39-3626. AUTHORIZATION OF GRANTS AND LOANS -- DESIGNATION OF ADMINISTERING AGENCY -- RESERVATION OF FUNDS FOR OPERATIONS -- CRITERIA -- PRIORITY PROJECTS -- ELIGIBLE PROJECTS. (1) The state of Idaho is hereby authorized to make grants and loans at or below market interest rates, as funds are available, to any municipality to assist said municipality in the construction of sewage treatment works, to community public water systems and nonprofit noncommunity public water systems. The state of Idaho is hereby also authorized to make loans at or below market interest rates for the implementation of a management program established under section 319 of the federal water pollution control act, as amended.

(2) The department of environmental quality may use a portion of the interest revenues from wastewater and drinking water loans, in an amount not to exceed one percent (1%) of loans outstanding, subject to annual appropriation, for operation of the wastewater and drinking water loan programs.

(3) The Idaho board of environmental quality through the department of environmental quality shall be the agency for administration of funds authorized for grants or loans under this chapter, and may reserve up to four percent (4%) of the moneys accruing annually to the water pollution control and wastewater facility loan funds to be appropriated annually for the purpose of operating the water quality programs established pursuant to this chapter. The board may also reserve up to six percent (6%) of the moneys accruing annually to the water pollution control fund to be appropriated annually for the purpose of conducting water quality studies including monitoring.

(4) In allocating state construction grants and loans under this chapter, the Idaho board of environmental quality shall give consideration to water pollution control needs, protection of public health and provision of safe drinking water.

(5) Pursuant to subsection (4) of this section, the Idaho board of environmental quality shall establish an integrated list of priority municipal sewage facility and nonpoint source pollution control projects and a list of priority community and nonprofit noncommunity public water systems.

(6) The Idaho board of environmental quality through the department of environmental quality may transfer funds between the wastewater facility loan account and the drinking water loan account. Such transfers shall be listed in the annual intended use plan and approved by the Idaho board of environmental quality.

SECTION 2. That Section 39-3629, Idaho Code, be, and the same is hereby amended to read as follows:

39-3629. WASTEWATER FACILITY LOAN ACCOUNT ESTABLISHED. There is hereby created and established in the agency asset fund in the state treasury an account to be known as the wastewater facility loan account. Surplus moneys in the wastewater facility loan account shall be invested by the state treasurer in the manner provided for idle state moneys in the state treasury under section 67-1210, Idaho Code. Interest received on all such investments shall be paid into the wastewater facility loan account. The account shall have paid into it:

1. Federal funds which are received by the state to provide for wastewater facility loans together with required state matching funds coming from a portion of the moneys in the water pollution control account as established in section 39-3628, Idaho Code;

2. All donations and grants from any source which may be used for the provisions of this section;

3. All principal and interest repayments of loans made pursuant to this chapter; and

4. Fund transfers from the drinking water loan account; and

5. Any other moneys which may hereafter be provided by law.

SECTION 3. That Section 39-7603, Idaho Code, be, and the same is hereby amended to read as follows:

39-7603. INVESTMENT OF FUNDS IN DRINKING WATER LOAN ACCOUNT. Surplus moneys in the drinking water loan account established by section 39-7602, Idaho Code, shall be invested by the state treasurer in the manner for idle state moneys in the state treasury as provided for in section 67-1210, Idaho Code. Interest received on all such investments shall be paid into the account. The account shall have paid into it: federal funds which are received by the state to provide for drinking water loans to public water systems together with the required state matching funds; all principal and interest repayments of loans made pursuant to this chapter; all donations and grants from any source which may be used for the provisions of this chapter; fund transfers from the wastewater facility loan account; and any moneys which may hereafter be provided by law.

Approved March 11, 2014

CHAPTER 60
(H.B. No. 392)

AN ACT

RELATING TO WATER QUALITY; AMENDING SECTION 39-3603, IDAHO CODE, TO REVISE PROVISIONS RELATING TO TIER II ANALYSIS FOR INSIGNIFICANT DEGRADATION, TO REVISE AND TO PROVIDE GUIDELINES FOR DETERMINATION OF WHETHER DEGRADATION IS SIGNIFICANT OR INSIGNIFICANT, TO REVISE PROVISIONS RELATING TO REQUESTS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR ADDITIONAL INFORMATION AND TO PROVIDE THAT IF DEGRADATION IS DETERMINED TO BE INSIGNIFICANT, THEN NO FURTHER TIER II ANALYSIS FOR OTHER SOURCE CONTROLS, ALTERNATIVES ANALYSIS OR SOCIOECONOMIC JUSTIFICATION IS REQUIRED; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-3603, Idaho Code, be, and the same is hereby amended to read as follows:

39-3603. ANTIDegradation POLICY AND IMPLEMENTATION. (1) Policy.

(a) Maintenance of existing uses for all waters -- Tier I protection. The existing instream beneficial uses of each water body and the level of water quality necessary to protect those uses shall be maintained and protected.

(b) High quality waters -- Tier II protection. Where the quality of waters exceeds levels necessary to support propagation of fish, shellfish and wildlife and recreation in and on the water, that quality shall be maintained unless the department finds, after full satisfaction of the intergovernmental coordination and public participation provisions of this chapter, and the department's planning processes, along with appropriate planning processes of other agencies, that lowering water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such reductions in water quality, the department shall assure water quality adequate to protect existing uses fully.

(c) Outstanding resource waters -- Tier III protection. Where an outstanding resource water has been designated by the legislature that water quality shall be maintained and protected from the impacts of point and nonpoint source activities.

(2) Implementation.

(a) General permits. For general permits issued on or after July 1, 2011, the department will conduct an antidegradation review, including any required Tier II analysis, at the time at which general permits are certified. For general permits that the department determines adequately address antidegradation, review of individual applications for coverage will not be required unless it is required by the general permit. For general permits that the department determines do not adequately address antidegradation, the department may conclude that other conditions, such as the submittal of additional information or individual certification at the time an application is submitted for coverage under a general permit, may be necessary in the general permit to provide reasonable assurance of compliance with the antidegradation policy. If supported by the permit record, the department may also presume that discharges authorized under a general permit are insignificant or that the pollution controls required in the general permit are the least degrading alternative as specified in the department's rules.

(b) Identification of Tier II waters. The department will utilize a water body by water body approach in determining where Tier II protection is appropriate in addition to Tier I protection. This approach shall be based on an assessment of the chemical, physical, biological and other information regarding the water body. The most recent federally approved integrated report and supporting data will be used to determine the appropriate level of protection as follows:

(i) Water bodies identified in the integrated report as fully supporting assessed uses will be provided Tier II protection.

(ii) Water bodies identified in the integrated report as not assessed will be provided an appropriate level of protection on a case-by-case basis using information available at the time of a proposal for a new or reissued permit or license.

(iii) Water bodies identified in the integrated report as not fully supporting assessed uses will receive Tier I protection for the impaired aquatic life or recreational use, except as follows:

1. For aquatic life uses identified as impaired for dissolved oxygen, pH or temperature, if biological or aquatic habitat parameters show a healthy, balanced biological community is present, as described in the water body assessment guidance published by the department, then the water body shall receive Tier II protection for aquatic life.

2. For recreational uses, if water quality data show compliance with those levels of water quality criteria listed in the department's rules, then the water body shall receive Tier II protection for recreational uses.

(iv) Special resource waters listed in the department's rules shall be evaluated in the same fashion as all other waters.

(c) ~~Tier II analysis for insignificant activity or discharge. The department shall consider the size and character of an activity or discharge or the magnitude of its effect on the receiving stream and degradation. If the department determines an activity or discharge will cause degradation, then the department shall determine whether it the degradation is insignificant. If an activity or discharge is determined to be insignificant, then no further Tier II analysis for other source controls, alternatives analysis or socioeconomic justification is required.~~

(i) The department shall determine insignificance when the proposed change in an activity or discharge, from conditions as of July 1, 2011, will not cumulatively decrease assimilative capacity by more than ten percent (10%) A cumulative decrease in assimilative capacity of more than ten percent (10%), from conditions as of July 1, 2011, shall constitute significant degradation. If

the cumulative decrease in assimilative capacity from conditions as of July 1, 2011, is equal to or less than ten percent (10%), then, taking into consideration the size and character of the activity or discharge and the magnitude of its effect on the receiving stream, the department may determine that the degradation is insignificant.

(ii) ~~The department may request additional information from the applicant in making a determination whether a proposed change in an activity or discharge is insignificant as needed to determine the significance of the degradation.~~

(iii) If degradation is determined to be insignificant, then no further Tier II analysis for other source controls, alternatives analysis or socioeconomic justification is required.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 11, 2014

CHAPTER 61
(H.B. No. 394)

AN ACT

RELATING TO HEALTH AND SAFETY; AMENDING SECTION 39-6105, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 39-6111, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE MEDICAL CRITERIA FOR A J-1 PETITIONING PHYSICIAN AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 39-6111A, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE MEDICAL CRITERIA FOR A NATIONAL INTEREST WAIVER PETITIONING PHYSICIAN AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 39-6105, Idaho Code, be, and the same is hereby amended to read as follows:

39-6105. DEFINITIONS. As used in this chapter:

(1) "Applicant" means a health care facility that seeks to employ a physician and is requesting state support of a J-1 visa waiver or national interest waiver.

(2) "Area of underservice" means a health professional shortage area in primary care or mental health, a medically underserved area, or a medically underserved population, federally designated by the secretary of health and human services. Physician scarcity areas as determined by the centers for medicaid and medicare services are included for the purpose of placing national interest waiver petitioning physicians.

(3) "Department" means the Idaho department of health and welfare.

(4) "De-designation threshold" means the number of full-time equivalent primary care physicians necessary to remove the federal designation as an area of underservice.

(5) "Employment contract" means a legally binding agreement between the applicant and the physician named in the J-1 visa waiver or national interest waiver application which contains all terms and conditions of employment, including, but not limited to, the salary, benefits, length of employment and any other consideration owing under the agreement. The

employment contract must meet all state and federal criteria, including labor and immigration rules.

(6) "Federal fiscal year" means the twelve (12) months which commence the first day of October in each year and close on the thirtieth day of September of the following year.

(7) "Full time" means a working week of a minimum of forty (40) hours at one (1) or more health care facilities.

(8) "Health care facility" means an entity with an active Idaho taxpayer identification number doing business or proposing to do business in the practice location where the physician would be employed, whose stated purposes include the delivery of primary medical or mental health care.

(9) "Interested government agency" means an agency that has the authority from the United States department of state to submit requests for J-1 visa waivers of foreign physician petitioners on behalf of public interest.

(10) "J-1 visa" means an entrance permit into the United States for a foreign trained physician who is a nonimmigrant admitted under section 101(a) (15) (J) of the United States information and education exchange act or who acquired such status or who acquired exchange visitor status under the act.

(11) "J-1 visa waiver" means a federal action that waives the requirement for a foreign physician, in the United States on a J-1 visa, to return to his home country for a two (2) year period following medical residency training.

(12) "National interest waiver" means an exemption from the labor certification process administered by the United States department of labor for foreign physicians whose will to stay in the United States and work in an area of underservice in Idaho is determined to be in the public interest by the Idaho department of health and welfare.

(13) "New start" means a health care facility as defined in subsection (8) of this section, that has been in existence for twelve (12) months or less.

(14) "Physician" means the foreign physician, named in the J-1 visa waiver or national interest waiver application, who requires a waiver to remain in the United States to practice medicine.

(15) "Primary care" means a medical doctor or doctor of osteopathy licensed in pediatrics, family medicine, internal medicine, obstetrics, gynecology, general surgery or psychiatry.

(16) "Sliding fee discount schedule" means a written delineation documenting the value of charge discounts granted to patients based upon financial hardship and federal poverty guidelines.

(17) "Unmet need" means a vacancy or shortage of primary care health physicians experienced by a community or population, as defined by federally designated health professional shortage areas or medically underserved areas/populations.

(18) "Vacancy" means a full-time physician practice opportunity in the delivery of primary care services.

SECTION 2. That Section 39-6111, Idaho Code, be, and the same is hereby amended to read as follows:

39-6111. CRITERIA FOR THE J-1 PETITIONING PHYSICIAN. (1) The physician must not have a J-1 visa waiver pending for any other employment offer, and must provide a notarized statement testifying to this fact.

(2) The physician must have the qualifications described in recruitment efforts for a specific vacancy.

(3) Physicians must:

(a) Provide direct patient care full time; and

(b) Be trained in:

(i) Family medicine;

- (ii) Internal medicine;
- (iii) Pediatrics;
- (iv) Obstetrics and gynecology; ~~or~~
- (v) General surgery; or
- (vi) Psychiatry and its subspecialties.

(4) Physicians must apply and be eligible for an active Idaho medical license. The physician may be participating in an accredited residency program for this application, but must have successfully completed the third year of their residency training program for their employment contract to be activated. The physician must have an unrestricted license to practice in the state of Idaho and be board certified or eligible in his respective medical specialty at the commencement of employment. A copy of the acknowledgment of receipt form from the state board of medicine must be included in the waiver request.

(5) Physicians must have at least one (1) recommendation from their residency program that:

- (a) Addresses the physician's interpersonal and professional ability to effectively care for diverse and low-income persons in the United States; and
- (b) Describes an ability to work well with supervisory and subordinate medical staff, and adapt to the culture of United States health care facilities; and
- (c) Documents the level of specialty training, if any; and
- (d) Is prepared on residency program letterhead and is signed by residency program staff or faculty; and
- (e) Includes name, title, relationship to physician, address, and telephone number of signatory.

(6) The physician must agree with all provisions of the employment contract as described herein in section 39-6109, Idaho Code. Other negotiable terms of the contract are between the physician and the hiring agency.

(7) The physician must:

- (a) Agree to work full time for no less than three (3) years in an area of underservice in the state of Idaho;
- (b) Provide health care to medicare and medicaid beneficiaries;
- (c) Post and implement a sliding fee discount schedule;
- (d) Serve the low-income population;
- (e) Serve the uninsured population; and
- (f) Serve the shortage designation population; or
- (g) Serve the population of a local, state, or federal governmental institution or corrections facility as an employee of the institution.

SECTION 3. That Section 39-6111A, Idaho Code, be, and the same is hereby amended to read as follows:

39-6111A. CRITERIA FOR THE NATIONAL INTEREST WAIVER PETITIONING PHYSICIAN. The national interest waiver petitioning physician must:

- (1) (a) Provide direct patient care full time; and
- (b) Be trained in:
 - (i) Family medicine;
 - (ii) Internal medicine;
 - (iii) Pediatrics;
 - (iv) Obstetrics and gynecology; ~~or~~
 - (v) General surgery; or
 - (vi) Psychiatry and its subspecialties.

(2) Apply and be eligible for an active Idaho medical license. The physician may be participating in an accredited residency program for this application, but must have successfully completed the third year of his residency training program for his employment contract to be activated. The physician must have an unrestricted license to practice in the state of Idaho

and be board certified or eligible in his respective medical specialty at the commencement of employment. A copy of the acknowledgment of receipt form from the state board of medicine must be included in the waiver request.

(3) Have at least one (1) recommendation from their residency program and one (1) from a previous employer, if applicable, that:

(a) Addresses the physician's interpersonal and professional ability to effectively care for diverse and low-income persons in the United States;

(b) Describes an ability to work well with supervisory and subordinate medical staff, and adapt to the culture of United States health care facilities;

(c) Documents the level of specialty training, if any;

(d) Is prepared on residency program letterhead or the employer's business letterhead and is signed by residency program staff or faculty; and

(e) Includes name, title, relationship to physician, address and phone number of signatory.

(4) Agree with all provisions of the employment contract as described in section 39-6109A, Idaho Code. Other negotiable terms of the contract are between the physician and the hiring agency.

(5) (a) Agree to work full time for no less than five (5) years in an area of underservice in the state of Idaho unless the physician qualifies for the three (3) year service provision under the applicable national interest waiver rules and regulations or the physician is transferring from another area of underservice;

(b) Provide health care to medicare and medicaid beneficiaries;

(c) Post and implement a sliding fee discount schedule;

(d) Serve the low-income population;

(e) Serve the uninsured population; and

(f) Serve the shortage designation population; or

(g) Serve the population of a local, state or federal governmental institution or corrections facility as an employee of the institution.

Approved March 11, 2014

CHAPTER 62
(H.B. No. 395)

AN ACT

RELATING TO MEDICAID; AMENDING SECTION 56-255, IDAHO CODE, TO PROVIDE DENTAL SERVICES FOR ADULT PARTICIPANTS WITH DISABILITIES OR SPECIAL HEALTH NEEDS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 56-255, Idaho Code, be, and the same is hereby amended to read as follows:

56-255. MEDICAL ASSISTANCE PROGRAM -- SERVICES TO BE PROVIDED. (1) The department may make payments for the following services furnished by providers to participants who are determined to be eligible on the dates on which the services were provided. Any service under this section shall be reimbursed only when medically necessary within the appropriations provided by law and in accordance with federal law and regulation, Idaho law and department rule. Notwithstanding any other provision of this chapter, medical assistance includes the following benefits specific to the eligibility categories established in section 56-254(1), (2) and (3), Idaho Code, as well as a list of benefits to which all Idaho medicaid participants are entitled, defined in subsection (5) of this section.

(2) Specific health benefits and limitations for low-income children and working-age adults with no special health needs include:

- (a) All services described in subsection (5) of this section;
- (b) Early and periodic screening, diagnosis and treatment services for individuals under age twenty-one (21) years, and treatment of conditions found; and
- (c) Cost-sharing required of participants. Participants in the low-income children and working-age adult group are subject to the following premium payments, as stated in department rules:
 - (i) Participants with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty guideline are not required to pay premiums; and
 - (ii) Participants with family incomes above one hundred thirty-three percent (133%) of the federal poverty guideline will be required to pay premiums in accordance with department rule.

(3) Specific health benefits for persons with disabilities or special health needs include:

- (a) All services described in subsection (5) of this section;
- (b) Early and periodic screening, diagnosis and treatment services for individuals under age twenty-one (21) years, and treatment of conditions found;
- (c) Case management services as defined in accordance with section 1905(a) (19) or section 1915(g) of the social security act; and
- (d) Long-term care services, including:
 - (i) Nursing facility services, other than services in an institution for mental diseases, subject to participant cost-sharing;
 - (ii) Home-based and community-based services, subject to federal approval, provided to individuals who require nursing facility level of care who, without home-based and community-based services, would require institutionalization. These services will include community supports, including options for self-determination or family-directed, which will enable individuals to have greater freedom to manage their own care within the determined budget as defined by department rule; and
 - (iii) Personal care services in a participant's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse;
- (e) Services for persons with developmental disabilities, including:
 - (i) Intermediate care facility services, other than such services in an institution for mental diseases, for persons determined in accordance with section 1902(a) (31) of the social security act to be in need of such care, including such services in a public institution, or distinct part thereof, for persons with intellectual disabilities or persons with related conditions;
 - (ii) Home-based and community-based services, subject to federal approval, provided to individuals who require an intermediate care facility for people with intellectual disabilities (ICF/ID) level of care who, without home-based and community-based services, would require institutionalization. These services will include community supports, including options for self-determination or family-directed, which will enable individuals to have greater freedom to manage their own care within the determined budget as defined by department rule. The department shall respond to requests for budget modifications only when health and safety issues are identified and meet the criteria as defined in department rule; and
 - (iii) Developmental disability services for children and adults shall be available based on need through state plan services or waiver services as described in department rule. The department

- shall develop a blended rate covering both individual and group developmental therapy services;
- (f) Home health services, including:
 - (i) Intermittent or part-time nursing services provided by a home health agency or by a registered nurse when no home health agency exists in the area;
 - (ii) Home health aide services provided by a home health agency; and
 - (iii) Physical therapy, occupational therapy or speech pathology and audiology services provided by a home health agency or medical rehabilitation facility;
 - (g) Hospice care in accordance with section 1905(o) of the social security act;
 - (h) Specialized medical equipment and supplies;
 - (i) Medicare cost-sharing, including:
 - (i) Medicare cost-sharing for qualified medicare beneficiaries described in section 1905(p) of the social security act;
 - (ii) Medicare part A premiums for qualified disabled and working individuals described in section 1902(a)(10)(E)(ii) of the social security act;
 - (iii) Medicare part B premiums for specified low-income medicare beneficiaries described in section 1902(a)(10)(E)(iii) of the social security act; and
 - (iv) Medicare part B premiums for qualifying individuals described in section 1902(a)(10)(E)(iv) and subject to section 1933 of the social security act; and
 - (j) Nonemergency medical transportation.
- (4) Specific health benefits for persons over twenty-one (21) years of age who have medicare and medicaid coverage include:
- (a) All services described in subsection (5) of this section, other than if provided under the federal medicare program;
 - (b) All services described in subsection (3) of this section, other than if provided under the federal medicare program;
 - (c) Other services that supplement medicare coverage; and
 - (d) Nonemergency medical transportation.
- (5) Benefits for all medicaid participants, unless specifically limited in subsection (2), (3) or (4) of this section, include the following:
- (a) Health care coverage including, but not limited to, basic inpatient and outpatient medical services, and including:
 - (i) Physicians' services, whether furnished in the office, the patient's home, a hospital, a nursing facility or elsewhere;
 - (ii) Services provided by a physician or other licensed practitioner to prevent disease, disability and other health conditions or their progressions, to prolong life, or to promote physical or mental health; and
 - (iii) Hospital care, including:
 1. Inpatient hospital services other than those services provided in an institution for mental diseases;
 2. Outpatient hospital services; and
 3. Emergency hospital services;
 - (iv) Laboratory and x-ray services;
 - (v) Prescribed drugs;
 - (vi) Family planning services and supplies for individuals of child-bearing age;
 - (vii) Certified pediatric or family nurse practitioners' services;
 - (viii) Emergency medical transportation;
 - (ix) Behavioral health services, including:

1. Outpatient behavioral health services that are appropriate, delivered by providers that meet national accreditation standards and may include community-based rehabilitation services and case management; and
2. Inpatient psychiatric facility services whether in a hospital, or, for persons under the age of twenty-two (22) years, in a freestanding psychiatric facility as permitted by federal law;
 - (x) Medical supplies, equipment, and appliances suitable for use in the home;
 - (xi) Physical therapy and speech therapies combined to align with the annual medicare caps; and
 - (xii) Occupational therapy to align with the annual medicare cap;
- (b) Primary care medical homes;
- (c) Dental services. Children shall have access to prevention, diagnosis and treatment services as defined in federal law. Adult coverage shall be limited to medically necessary oral surgery and palliative services and associated diagnostic services. Select covered benefits include: exams, radiographs, periodontal, oral and maxillofacial surgery and adjunctive general services as defined in department rule. ~~Pregnant women, participants on the aged and disabled waiver and the developmental disability waiver and adult participants with disabilities or special health needs shall have access to dental services that reflect evidence-based practice;~~
- (d) Medical care and any other type of remedial care recognized under Idaho law, furnished by licensed practitioners within the scope of their practice as defined by Idaho law, including:
 - (i) Podiatrists' services based on chronic care criteria as defined in department rule;
 - (ii) Optometrists' services based on chronic care criteria as defined in department rule;
 - (iii) Chiropractors' services shall be limited to six (6) visits per year; and
 - (iv) Other practitioners' services, in accordance with department rules;
- (e) Services for individuals with speech, hearing and language disorders as defined in department rule;
- (f) Eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist;
- (g) Services provided by essential providers, including:
 - (i) Rural health clinic services and other ambulatory services furnished by a rural health clinic in accordance with section 1905(1) (1) of the social security act;
 - (ii) Federally qualified health center (FQHC) services and other ambulatory services that are covered under the plan and furnished by an FQHC in accordance with section 1905(1) (2) of the social security act;
 - (iii) Indian health services;
 - (iv) District health departments; and
 - (v) The family medicine residency of Idaho and the Idaho state university family medicine residency; and
- (h) Physician, hospital or other services deemed experimental are excluded from coverage. The director may allow coverage of procedures or services deemed investigational if the procedures or services are as cost-effective as traditional, standard treatments.

CHAPTER 63
(H.B. No. 404)

AN ACT

RELATING TO MOTOR VEHICLE DRIVERS; AMENDING SECTION 18-101A, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 18-8002, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A STATE APPROVED IGNITION INTERLOCK SYSTEM; AMENDING SECTION 18-8002A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A STATE APPROVED IGNITION INTERLOCK SYSTEM; AMENDING SECTION 18-8004C, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A STATE APPROVED IGNITION INTERLOCK SYSTEM; AMENDING SECTION 18-8005, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A STATE APPROVED IGNITION INTERLOCK SYSTEM AND TO REVISE PROVISIONS RELATING TO AN ALCOHOL EVALUATION; AND AMENDING SECTION 18-8008, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A COURT ORDER, TO REVISE PROVISIONS RELATING TO A CALIBRATION AND TO REVISE A DEFINITION.

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

SECTION 1. That Section 18-101A, Idaho Code, be, and the same is hereby amended to read as follows:

18-101A. DEFINITIONS. As used in titles 18, 19 and 20, Idaho Code, and elsewhere in the Idaho Code, unless otherwise specifically provided or unless the context clearly indicates or requires otherwise, the following terms shall be defined as follows:

(1) "Correctional facility" means a facility for the confinement of prisoners or juvenile offenders. The term shall be construed to include references to terms including, but not limited to, "prison," "state prison," "state penitentiary," "governmental detention facility," "penal institution (facility)," "correctional institution," "juvenile correctional center," "Idaho security medical program," "detention institution (facility)," "juvenile detention center (facility)," "county jail," "jail," "private prison (facility)," "private correctional facility," or those facilities that detain juvenile offenders pursuant to a contract with the Idaho department of juvenile corrections.

(2) "In-state prisoner" means any person who has been charged with or convicted of a crime in the state of Idaho or who is being detained pursuant to a court order, and

(a) Who is being housed in any state, local or private correctional facility, or

(b) Who is being transported in any manner within or through the state of Idaho.

(3) "Local correctional facility" means a facility for the confinement of prisoners operated by or under the control of a county or city. The term shall include references to "county jail," or "jail." The term shall also include a private correctional facility housing prisoners under the custody of the state board of correction, the county sheriff or other local law enforcement agency.

(4) "Out-of-state prisoner" or "out-of-state inmate" means any person who is convicted of and sentenced for a crime in a state other than the state of Idaho, or under the laws of the United States or other foreign jurisdiction, and

(a) Who is being housed in any state, local or private correctional facility in the state of Idaho, or

(b) Who is being transported in any manner within or through the state of Idaho.

(5) "Parolee" means a person who has been convicted of a felony and who has been placed on parole by the Idaho commission for pardons and parole or similar body of another state, the United States, or a foreign jurisdiction, and who is not incarcerated in any state, local or private correctional facility, and who is being supervised by employees of the Idaho department of correction.

(6) "Prisoner" means a person who has been convicted of a crime in the state of Idaho or who is being detained pursuant to a court order, or who is convicted of and sentenced for a crime in a state other than the state of Idaho, or under the laws of the United States or other foreign jurisdiction, and

(a) Who is being housed in any state, local or private correctional facility, or

(b) Who is being transported in any manner within or through the state of Idaho.

The term shall be construed to include references to terms including, but not limited to, "inmate," "convict," "detainee," and other similar terms, and shall include "out-of-state prisoner" and "out-of-state inmate."

(7) "Private correctional facility" or "private prison (facility)" means a correctional facility constructed or operated in the state of Idaho by a private prison contractor.

(8) "Private prison contractor" means any person, organization, partnership, joint venture, corporation or other business entity engaged in the site selection, design, design/building, acquisition, construction, construction/management, financing, maintenance, leasing, leasing/purchasing, management or operation of private correctional facilities or any combination of these services.

(9) "Probationer" means a person who has been placed on felony probation by an Idaho court, or a court of another state, the United States, or a foreign jurisdiction, and who is not incarcerated in any state, local or private correctional facility, and who is being supervised by employees of the Idaho department of correction.

(10) "Repeat offender" means, for the purposes of sections 18-8002, 18-8002A, 18-8004C, 18-8005 and 18-8008, Idaho Code, a person who has been convicted of driving while intoxicated or driving under the influence of alcohol and/or drugs more than once in any five (5) year period for the purposes of sections 18-8002A and 18-8004C, Idaho Code, or any ten (10) year period for the purposes of sections 18-8002 and 18-8005, Idaho Code.

(11) "State correctional facility" means a facility for the confinement of prisoners, owned or operated by or under the control of the state of Idaho. The term shall include references to "state prison," "state penitentiary" or "state penal institution (facility)." The term shall also include a private correctional facility housing prisoners under the custody of the board of correction.

(112) "Supervising officer" means an employee of the Idaho department of correction who is charged with or whose duties include supervision of felony parolees or felony probationers.

(123) "Juvenile offender" means a person younger than eighteen (18) years of age or who was younger than eighteen (18) years of age at the time of any act, omission, or status for which the person is being detained in a correctional facility pursuant to court order.

SECTION 2. That Section 18-8002, Idaho Code, be, and the same is hereby amended to read as follows:

18-8002. TESTS OF DRIVER FOR ALCOHOL CONCENTRATION, PRESENCE OF DRUGS OR OTHER INTOXICATING SUBSTANCES -- PENALTY AND SUSPENSION UPON REFUSAL OF TESTS. (1) Any person who drives or is in actual physical control of a motor vehicle in this state shall be deemed to have given his consent to

evidentiary testing for concentration of alcohol as defined in section 18-8004, Idaho Code, and to have given his consent to evidentiary testing for the presence of drugs or other intoxicating substances, provided that such testing is administered at the request of a peace officer having reasonable grounds to believe that person has been driving or in actual physical control of a motor vehicle in violation of the provisions of section 18-8004, Idaho Code, or section 18-8006, Idaho Code.

(2) Such person shall not have the right to consult with an attorney before submitting to such evidentiary testing.

(3) At the time evidentiary testing for concentration of alcohol, or for the presence of drugs or other intoxicating substances is requested, the person shall be informed that if he refuses to submit to or if he fails to complete, evidentiary testing:

(a) He is subject to a civil penalty of two hundred fifty dollars (\$250) for refusing to take the test;

(b) He has the right to request a hearing within seven (7) days to show cause why he refused to submit to, or complete evidentiary testing;

(c) If he does not request a hearing or does not prevail at the hearing, the court shall sustain the civil penalty and his driver's license will be suspended absolutely for one (1) year if this is his first refusal and two (2) years if this is his second refusal within ten (10) years;

(d) Provided however, if he is admitted to a problem solving court program and has served at least forty-five (45) days of an absolute suspension of driving privileges, then he may be eligible for a restricted permit for the purpose of getting to and from work, school or an alcohol treatment program; and

(e) After submitting to evidentiary testing he may, when practicable, at his own expense, have additional tests made by a person of his own choosing.

(4) If the motorist refuses to submit to or complete evidentiary testing after the information has been given in accordance with subsection (3) above:

(a) He shall be fined a civil penalty of two hundred fifty dollars (\$250);

(b) A written request may be made within seven (7) calendar days for a hearing before the court; if requested, the hearing must be held within thirty (30) days of the date of service unless this period is, for good cause shown, extended by the court for one (1) additional thirty (30) day period. The hearing shall be limited to the question of why the defendant did not submit to, or complete, evidentiary testing, and the burden of proof shall be upon the defendant; the court shall sustain a two hundred fifty dollar (\$250) civil penalty immediately and suspend all the defendant's driving privileges immediately for one (1) year for a first refusal and two (2) years for a second refusal within ten (10) years unless it finds that the peace officer did not have legal cause to stop and request him to take the test or that the request violated his civil rights;

(c) If a hearing is not requested by written notice to the court concerned within seven (7) calendar days, upon receipt of a sworn statement by the peace officer of the circumstances of the refusal, the court shall sustain a two hundred fifty dollar (\$250) civil penalty and suspend the defendant's driving privileges for one (1) year for a first refusal and two (2) years for a second refusal within ten (10) years, during which time he shall have absolutely no driving privileges of any kind;

(d) Notwithstanding the provisions of subsection (4) (b) and (c) of this section, if the defendant is enrolled in and is a participant in good standing in a drug court or mental health court approved by the supreme court drug court and mental health court coordinating committee

under the provisions of chapter 56, title 19, Idaho Code, or other similar problem solving court utilizing community-based sentencing alternatives, then the defendant shall be eligible for restricted noncommercial driving privileges for the purpose of getting to and from work, school or an alcohol treatment program, which may be granted by the presiding judge of the drug court or mental health court or other similar problem solving court, provided that the defendant has served a period of absolute suspension of driving privileges of at least forty-five (45) days, that an a state approved ignition interlock device system is installed, and for repeat offenders it shall be maintained for not less than one (1) year, on each of the motor vehicles owned or operated, or both, by the defendant and that the defendant has shown proof of financial responsibility as defined and in the amounts specified in section 49-117, Idaho Code, provided that the restricted noncommercial driving privileges may be continued if the defendant successfully completes the drug court, mental health court or other similar problem solving court, and that the court may revoke such privileges for failure to comply with the terms of probation or with the terms and conditions of the drug court, mental health court or other similar problem solving court program; and

(e) After submitting to evidentiary testing at the request of the peace officer, he may, when practicable, at his own expense, have additional tests made by a person of his own choosing. The failure or inability to obtain an additional test or tests by a person shall not preclude the admission of results of evidentiary testing for alcohol concentration or for the presence of drugs or other intoxicating substances taken at the direction of the peace officer unless the additional test was denied by the peace officer.

(5) Any sustained civil penalty or suspension of driving privileges under this section or section 18-8002A, Idaho Code, shall be a civil penalty separate and apart from any other suspension imposed for a violation of other Idaho motor vehicle codes or for a conviction of an offense pursuant to this chapter, and may be appealed to the district court.

(6) No hospital, hospital officer, agent, or employee, or health care professional licensed by the state of Idaho, whether or not such person has privileges to practice in the hospital in which a body fluid sample is obtained or an evidentiary test is made, shall incur any civil or criminal liability for any act arising out of administering an evidentiary test for alcohol concentration or for the presence of drugs or other intoxicating substances at the request or order of a peace officer in the manner described in this section and section 18-8002A, Idaho Code; provided that nothing in this section shall relieve any such person or legal entity from civil liability arising from the failure to exercise the community standard of care.

(a) This immunity extends to any person who assists any individual to withdraw a blood sample for evidentiary testing at the request or order of a peace officer, which individual is authorized to withdraw a blood sample under the provisions of section 18-8003, Idaho Code, regardless of the location where the blood sample is actually withdrawn.

(b) A peace officer is empowered to order an individual authorized in section 18-8003, Idaho Code, to withdraw a blood sample for evidentiary testing when the peace officer has probable cause to believe that the suspect has committed any of the following offenses:

(i) Aggravated driving under the influence of alcohol, drugs or other intoxicating substances as provided in section 18-8006, Idaho Code;

(ii) Vehicular manslaughter as provided in subsection (3) (a), (b) and (c) of section 18-4006, Idaho Code;

- (iii) Aggravated operating of a vessel on the waters of the state while under the influence of alcohol, drugs or other intoxicating substances as provided in section 67-7035, Idaho Code; or
- (iv) Any criminal homicide involving a vessel on the waters of the state while under the influence of alcohol, drugs or other intoxicating substances.

(c) Nothing herein shall limit the discretion of the hospital administration to designate the qualified hospital employee responsible to withdraw the blood sample.

(d) The law enforcement agency that requests or orders withdrawal of the blood sample shall pay the reasonable costs to withdraw such blood sample, perform laboratory analysis, preserve evidentiary test results, and testify in judicial proceedings. The court may order restitution pursuant to the provisions of section 18-8003(2), Idaho Code.

(e) The withdrawal of the blood sample may be delayed or terminated if:

- (i) In the reasonable judgment of the hospital personnel withdrawal of the blood sample may result in serious bodily injury to hospital personnel or other patients; or
- (ii) The licensed health care professional treating the suspect believes the withdrawal of the blood sample is contraindicated because of the medical condition of the suspect or other patients.

(7) "Actual physical control" as used in this section and section 18-8002A, Idaho Code, shall be defined as being in the driver's position of the motor vehicle with the motor running or with the motor vehicle moving.

(8) Any written notice required by this section shall be effective upon mailing.

(9) For the purposes of this section and section 18-8002A, Idaho Code, "evidentiary testing" shall mean a procedure or test or series of procedures or tests, including the additional test authorized in subsection (10) of this section, utilized to determine the concentration of alcohol or the presence of drugs or other intoxicating substances in a person.

(10) A person who submits to a breath test for alcohol concentration, as defined in subsection (4) of section 18-8004, Idaho Code, may also be requested to submit to a second evidentiary test of blood or urine for the purpose of determining the presence of drugs or other intoxicating substances if the peace officer has reasonable cause to believe that a person was driving under the influence of any drug or intoxicating substance or the combined influence of alcohol and any drug or intoxicating substance. The peace officer shall state in his or her report the facts upon which that belief is based.

(11) Notwithstanding any other provision of law to the contrary, the civil penalty imposed under the provisions of this section must be paid, as ordered by the court, to the county justice fund or the county current expense fund where the incident occurred. If a person does not pay the civil penalty imposed as provided in this section within thirty (30) days of the imposition, unless this period has been extended by the court for good cause shown, the prosecuting attorney representing the political subdivision where the incident occurred may petition the court in the jurisdiction where the incident occurred to file the order imposing the civil penalty as an order of the court. Once entered, the order may be enforced in the same manner as a final judgment of the court. In addition to the civil penalty, attorney's fees, costs and interest may be assessed against any person who fails to pay the civil penalty.

SECTION 3. That Section 18-8002A, Idaho Code, be, and the same is hereby amended to read as follows:

18-8002A. TESTS OF DRIVER FOR ALCOHOL CONCENTRATION, PRESENCE OF DRUGS OR OTHER INTOXICATING SUBSTANCES -- SUSPENSION UPON FAILURE OF TESTS. (1) Definitions. As used in this section:

(a) "Actual physical control" means being in the driver's position of a motor vehicle with the motor running or with the vehicle moving.

(b) "Administrative hearing" means a hearing conducted by a hearing officer to determine whether a suspension imposed by the provisions of this section should be vacated or sustained.

(c) "Department" means the Idaho transportation department and, as the context requires, shall be construed to include any agent of the department designated by rule as hereinafter provided.

(d) "Director" means the director of the Idaho transportation department.

(e) "Evidentiary testing" means a procedure or test or series of procedures or tests utilized to determine the concentration of alcohol or the presence of drugs or other intoxicating substances in a person, including additional testing authorized by subsection (6) of this section. An evidentiary test for alcohol concentration shall be based on a formula of grams of alcohol per one hundred (100) cubic centimeters of blood, per two hundred ten (210) liters of breath, or sixty-seven (67) milliliters of urine. Analysis of blood, breath or urine for the purpose of determining alcohol concentration shall be performed by a laboratory operated by the Idaho state police or by a laboratory approved by the Idaho state police under the provisions of approval and certification standards to be set by the Idaho state police, or by any other method approved by the Idaho state police. Notwithstanding any other provision of law or rule of court, the results of any test for alcohol concentration and records relating to calibration, approval, certification or quality control performed by a laboratory operated and approved by the Idaho state police or by any other method approved by the Idaho state police shall be admissible in any proceeding in this state without the necessity of producing a witness to establish the reliability of the testing procedure for examination.

(f) "Hearing officer" means a person designated by the department to conduct administrative hearings. The hearing officer shall have authority to administer oaths, examine witnesses and take testimony, receive relevant evidence, issue subpoenas, regulate the course and conduct of the hearing and make a final ruling on the issues before him.

(g) "Hearing request" means a request for an administrative hearing on the suspension imposed by the provisions of this section.

(2) Information to be given. At the time of evidentiary testing for concentration of alcohol, or for the presence of drugs or other intoxicating substances is requested, the person shall be informed that if the person refuses to submit to or fails to complete evidentiary testing, or if the person submits to and completes evidentiary testing and the test results indicate an alcohol concentration or the presence of drugs or other intoxicating substances in violation of section 18-8004, 18-8004C or 18-8006, Idaho Code, the person shall be informed substantially as follows (but need not be informed verbatim):

If you refuse to submit to or if you fail to complete and pass evidentiary testing for alcohol or other intoxicating substances:

(a) The peace officer will issue a notice of suspension;

(b) You have the right to request a hearing within seven (7) days of the notice of suspension of your driver's license to show cause why you refused to submit to or to complete and pass evidentiary testing and why your driver's license should not be suspended;

(c) If you refused or failed to complete evidentiary testing and do not request a hearing before the court or do not prevail at the hearing, your driver's license will be suspended. The suspension will be for one (1)

year if this is your first refusal. The suspension will be for two (2) years if this is your second refusal within ten (10) years. You will not be able to obtain a temporary restricted license during that period;

(d) If you complete evidentiary testing and fail the testing and do not request a hearing before the department or do not prevail at the hearing, your driver's license will be suspended. This suspension will be for ninety (90) days if this is your first failure of evidentiary testing, but you may request restricted noncommercial vehicle driving privileges after the first thirty (30) days. The suspension will be for one (1) year if this is your second failure of evidentiary testing within five (5) years. You will not be able to obtain a temporary restricted license during that period;

(e) However, if you are admitted to a problem solving court program and have served at least forty-five (45) days of an absolute suspension of driving privileges, you may be eligible for a restricted permit for the purpose of getting to and from work, school or an alcohol treatment program; and

(f) After submitting to evidentiary testing you may, when practicable, at your own expense, have additional tests made by a person of your own choosing.

(3) Rulemaking authority of the Idaho state police. The Idaho state police may, pursuant to chapter 52, title 67, Idaho Code, prescribe by rule:

(a) What testing is required to complete evidentiary testing under this section; and

(b) What calibration or checking of testing equipment must be performed to comply with the department's requirements. Any rules of the Idaho state police shall be in accordance with the following: a test for alcohol concentration in breath as defined in section 18-8004, Idaho Code, and subsection (1) (e) of this section will be valid for the purposes of this section if the breath alcohol testing instrument was approved for testing by the Idaho state police in accordance with section 18-8004, Idaho Code, at any time within ninety (90) days before the evidentiary testing. A test for alcohol concentration in blood or urine as defined in section 18-8004, Idaho Code, that is reported by the Idaho state police or by any laboratory approved by the Idaho state police to perform this test will be valid for the purposes of this section.

(4) Suspension.

(a) Upon receipt of the sworn statement of a peace officer that there existed legal cause to believe a person had been driving or was in actual physical control of a motor vehicle while under the influence of alcohol, drugs or other intoxicating substances and that the person submitted to a test and the test results indicated an alcohol concentration or the presence of drugs or other intoxicating substances in violation of section 18-8004, 18-8004C or 18-8006, Idaho Code, the department shall suspend the person's driver's license, driver's permit, driving privileges or nonresident driving privileges:

(i) For a period of ninety (90) days for a first failure of evidentiary testing under the provisions of this section. The first thirty (30) days of the suspension shall be absolute and the person shall have absolutely no driving privileges of any kind. Restricted noncommercial vehicle driving privileges applicable during the remaining sixty (60) days of the suspension may be requested as provided in subsection (9) of this section.

(ii) For a period of one (1) year for a second and any subsequent failure of evidentiary testing under the provisions of this section within the immediately preceding five (5) years. No driving privileges of any kind shall be granted during the suspension imposed pursuant to this subsection.

The person may request an administrative hearing on the suspension as provided in subsection (7) of this section. Any right to contest the suspension shall be waived if a hearing is not requested as therein provided.

(b) The suspension shall become effective thirty (30) days after service upon the person of the notice of suspension. The notice shall be in a form provided by the department and shall state:

- (i) The reason and statutory grounds for the suspension;
- (ii) The effective date of the suspension;
- (iii) The suspension periods to which the person may be subject as provided in subsection (4) (a) of this section;
- (iv) The procedures for obtaining restricted noncommercial vehicle driving privileges;
- (v) The rights of the person to request an administrative hearing on the suspension and that if an administrative hearing is not requested within seven (7) days of service of the notice of suspension the right to contest the suspension shall be waived;
- (vi) The procedures for obtaining an administrative hearing on the suspension;
- (vii) The right to judicial review of the hearing officer's decision on the suspension and the procedures for seeking such review.

(c) Notwithstanding the provisions of subsection (4) (a) (i) and (ii) of this section, a person who is enrolled in and is a participant in good standing in a drug court or mental health court approved by the supreme court drug court and mental health court coordinating committee under the provisions of chapter 56, title 19, Idaho Code, or other similar problem solving court utilizing community-based sentencing alternatives, shall be eligible for restricted noncommercial driving privileges for the purpose of getting to and from work, school or an alcohol treatment program, which may be granted by the presiding judge of the drug court or mental health court or other similar problem solving court, provided that the offender has served a period of absolute suspension of driving privileges of at least forty-five (45) days, that an a state approved ignition interlock device system is installed, and for repeat offenders it shall be maintained for not less than one (1) year, on each of the motor vehicles owned or operated, or both, by the offender and that the offender has shown proof of financial responsibility as defined and in the amounts specified in section 49-117, Idaho Code, provided that the restricted noncommercial driving privileges may be continued if the offender successfully completes the drug court, mental health court or other similar problem solving court, and that the court may revoke such privileges for failure to comply with the terms of probation or with the terms and conditions of the drug court, mental health court or other similar problem solving court program.

(5) Service of suspension by peace officer or the department. If the driver submits to evidentiary testing after the information in subsection (2) of this section has been provided and the results of the test indicate an alcohol concentration or the presence of drugs or other intoxicating substances in violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code:

(a) The peace officer shall, acting on behalf of the department, serve the person with a notice of suspension in the form and containing the information required under subsection (4) of this section. The department may serve the person with a notice of suspension if the peace officer failed to issue the notice of suspension or failed to include the date of service as provided in subsection (4) (b) of this section.

(b) Within five (5) business days following service of a notice of suspension the peace officer shall forward to the department a copy of the completed notice of suspension form upon which the date of service

upon the driver shall be clearly indicated, a certified copy or duplicate original of the results of all tests for alcohol concentration, as shown by analysis of breath administered at the direction of the peace officer, and a sworn statement of the officer, which may incorporate any arrest or incident reports relevant to the arrest and evidentiary testing setting forth:

- (i) The identity of the person;
- (ii) Stating the officer's legal cause to stop the person;
- (iii) Stating the officer's legal cause to believe that the person had been driving or was in actual physical control of a motor vehicle while under the influence of alcohol, drugs or other intoxicating substances in violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code;
- (iv) That the person was advised of the consequences of taking and failing the evidentiary test as provided in subsection (2) of this section;
- (v) That the person was lawfully arrested;
- (vi) That the person was tested for alcohol concentration, drugs or other intoxicating substances as provided in this chapter, and that the results of the test indicated an alcohol concentration or the presence of drugs or other intoxicating substances in violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code.

If an evidentiary test of blood or urine was administered rather than a breath test, the peace officer or the department shall serve the notice of suspension once the results are received. The sworn statement required in this subsection shall be made on forms in accordance with rules adopted by the department.

(c) The department may serve the person with a notice of suspension if the peace officer failed to issue the notice of suspension or failed to include the date of service as provided in subsection (4) (b) of this section.

(6) Additional tests. After submitting to evidentiary testing at the request of the peace officer, the person may, when practicable, at his own expense, have additional tests for alcohol concentration or for the presence of drugs or other intoxicating substances made by a person of his own choosing. The person's failure or inability to obtain additional tests shall not preclude admission of the results of evidentiary tests administered at the direction of the peace officer unless additional testing was denied by the peace officer.

(7) Administrative hearing on suspension. A person who has been served with a notice of suspension after submitting to an evidentiary test may request an administrative hearing on the suspension before a hearing officer designated by the department. The request for hearing shall be in writing and must be received by the department within seven (7) calendar days of the date of service upon the person of the notice of suspension, and shall include what issue or issues shall be raised at the hearing. The date on which the hearing request was received shall be noted on the face of the request.

If a hearing is requested, the hearing shall be held within twenty (20) days of the date the hearing request was received by the department unless this period is, for good cause shown, extended by the hearing officer for one ten (10) day period. Such extension shall not operate as a stay of the suspension, notwithstanding an extension of the hearing date beyond such thirty (30) day period. Written notice of the date and time of the hearing shall be sent to the party requesting the hearing at least seven (7) days prior to the scheduled hearing date. The department may conduct all hearings by telephone if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place.

The hearing shall be recorded. The sworn statement of the arresting officer, and the copy of the notice of suspension issued by the officer shall be admissible at the hearing without further evidentiary foundation. The results of any tests for alcohol concentration or the presence of drugs or other intoxicating substances by analysis of blood, urine or breath administered at the direction of the peace officer and the records relating to calibration, certification, approval or quality control pertaining to equipment utilized to perform the tests shall be admissible as provided in section 18-8004(4), Idaho Code. The arresting officer shall not be required to participate unless directed to do so by a subpoena issued by the hearing officer.

The burden of proof shall be on the person requesting the hearing. The hearing officer shall not vacate the suspension unless he finds, by a preponderance of the evidence, that:

- (a) The peace officer did not have legal cause to stop the person; or
- (b) The officer did not have legal cause to believe the person had been driving or was in actual physical control of a vehicle while under the influence of alcohol, drugs or other intoxicating substances in violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code; or
- (c) The test results did not show an alcohol concentration or the presence of drugs or other intoxicating substances in violation of section 18-8004, 18-8004C or 18-8006, Idaho Code; or
- (d) The tests for alcohol concentration, drugs or other intoxicating substances administered at the direction of the peace officer were not conducted in accordance with the requirements of section 18-8004(4), Idaho Code, or the testing equipment was not functioning properly when the test was administered; or
- (e) The person was not informed of the consequences of submitting to evidentiary testing as required in subsection (2) of this section.

If the hearing officer finds that the person has not met his burden of proof, he shall sustain the suspension. The hearing officer shall make findings of fact and conclusions of law on each issue and shall enter an order vacating or sustaining the suspension. The findings of fact, conclusions of law and order entered by the hearing officer shall be considered a final order pursuant to the provisions of chapter 52, title 67, Idaho Code, except that motions for reconsideration of such order shall be allowed and new evidence can be submitted.

The facts as found by the hearing officer shall be independent of the determination of the same or similar facts in the adjudication of any criminal charges arising out of the same occurrence. The disposition of those criminal charges shall not affect the suspension required to be imposed under the provisions of this section. If a license is suspended under this section and the person is also convicted on criminal charges arising out of the same occurrence for a violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, both the suspension under this section and the suspension imposed pursuant to the provisions of section 18-8005 or 18-8006, Idaho Code, shall be imposed, but the periods of suspension shall run concurrently, with the total period of suspension not to exceed the longer of the applicable suspension periods, unless the court ordering the suspension in the criminal case orders to the contrary.

(8) Judicial review. A party aggrieved by the decision of the hearing officer may seek judicial review of the decision in the manner provided for judicial review of final agency action provided in chapter 52, title 67, Idaho Code.

(9) Restricted noncommercial vehicle driving privileges. A person served with a notice of suspension for ninety (90) days pursuant to this section may apply to the department for restricted noncommercial vehicle driving privileges, to become effective after the thirty (30) day absolute

suspension has been completed. The request may be made at any time after service of the notice of suspension. Restricted noncommercial vehicle driving privileges will be issued for the person to travel to and from work and for work purposes not involving operation of a commercial vehicle, to attend an alternative high school, work on a GED, for postsecondary education, or to meet the medical needs of the person or his family if the person is eligible for restricted noncommercial vehicle driving privileges. Any person whose driving privileges are suspended under the provisions of this chapter may be granted privileges to drive a noncommercial vehicle but shall not be granted privileges to operate a commercial motor vehicle.

(10) Rules. The department may adopt rules under the provisions of chapter 52, title 67, Idaho Code, deemed necessary to implement the provisions of this section.

SECTION 4. That Section 18-8004C, Idaho Code, be, and the same is hereby amended to read as follows:

18-8004C. EXCESSIVE ALCOHOL CONCENTRATION -- PENALTIES. Notwithstanding any provision of section 18-8005, Idaho Code, to the contrary:

(1) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), Idaho Code, for the first time, but who has an alcohol concentration of 0.20, as defined in section 18-8004(4), Idaho Code, or more, as shown by an analysis of his blood, breath or urine by a test requested by a police officer, shall be guilty of a misdemeanor; and:

(a) Shall be sentenced to jail for a mandatory minimum period of not less than ten (10) days, the first forty-eight (48) hours of which must be consecutive, and may be sentenced to not more than one (1) year;

(b) May be fined an amount not to exceed two thousand dollars (\$2,000);

(c) Shall be advised by the court in writing at the time of sentencing, of the penalties that will be imposed for subsequent violations of the provisions of this section and violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney;

(d) Shall surrender his driver's license or permit to the court;

(e) Shall have his driving privileges suspended by the court for an additional mandatory minimum period of one (1) year after release from confinement, during which one (1) year period absolutely no driving privileges of any kind may be granted.

(2) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004, Idaho Code, and who has an alcohol concentration of 0.20, as defined in section 18-8004(4), Idaho Code, or more, as shown by an analysis of his blood, breath or urine by a test requested by a police officer, and who previously has been found guilty of or has pled guilty to one (1) or more violations of the provisions of section 18-8004, Idaho Code, in which the person had an alcohol concentration of 0.20 or more, or any substantially conforming foreign criminal violation wherein the defendant had an alcohol concentration of 0.20 or more, or any combination thereof, within five (5) years, notwithstanding the form of judgment or withheld judgment shall be guilty of a felony; and:

(a) Shall be sentenced to the custody of the state board of correction for a term not to exceed five (5) years; provided that notwithstanding the provisions of section 19-2601, Idaho Code, should the court impose any sentence other than incarceration in the state penitentiary, the defendant shall be sentenced to the county jail for a mandatory minimum period of not less than thirty (30) days; and further provided that notwithstanding the provisions of section 18-111, Idaho Code, a conviction under this section shall be deemed a felony;

(b) May be fined an amount not to exceed five thousand dollars (\$5,000);

(c) Shall surrender his driver's license or permit to the court;

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, and may have his driving privileges suspended by the court for a period not to exceed five (5) years after release from imprisonment, during which time he shall have absolutely no driving privileges of any kind; and

(e) Shall, while operating a motor vehicle, be required to drive only a motor vehicle equipped with a functioning ignition interlock system, as provided in section 18-8008, Idaho Code, following the mandatory license suspension period.

(3) Notwithstanding the provisions of subsections (1) (e) and (2) (d) of this section, a person who is enrolled in and is a participant in good standing in a drug court or mental health court approved by the supreme court drug court and mental health court coordinating committee under the provisions of chapter 56, title 19, Idaho Code, or other similar problem solving court utilizing community-based sentencing alternatives, shall be eligible for restricted noncommercial driving privileges for the purpose of getting to and from work, school or an alcohol treatment program, which may be granted by the presiding judge of the drug court or mental health court or other similar problem solving court, provided that the offender has served a period of absolute suspension of driving privileges of at least forty-five (45) days, that an a state approved ignition interlock device system is installed, and for repeat offenders it shall be maintained for not less than one (1) year, on each of the motor vehicles owned or operated, or both, by the offender, and that the offender has shown proof of financial responsibility as defined and in the amounts specified in section 49-117, Idaho Code, provided that the restricted noncommercial driving privileges may be continued if the offender successfully completes the drug court, mental health court or other similar problem solving court, and that the court may revoke such privileges for failure to comply with the terms of probation or with the terms and conditions of the drug court, mental health court or other similar problem solving court program.

(4) All the provisions of section 18-8005, Idaho Code, not in conflict with or otherwise provided for in this section, shall apply to this section.

(5) Notwithstanding any other provision of law, any evidence of conviction under this section shall be admissible in any civil action for damages resulting from the occurrence. A conviction for the purposes of this section means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

SECTION 5. That Section 18-8005, Idaho Code, be, and the same is hereby amended to read as follows:

18-8005. PENALTIES. (1) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1) (a), Idaho Code, for the first time is guilty of a misdemeanor; and, except as provided in section 18-8004C, Idaho Code:

(a) May be sentenced to jail for a term not to exceed six (6) months;

(b) May be fined an amount not to exceed one thousand dollars (\$1,000);

(c) Shall be advised by the court in writing at the time of sentencing of the penalties that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney; and

(d) Shall have his driving privileges suspended by the court for a period of thirty (30) days which shall not be reduced and during which thirty (30) day period absolutely no driving privileges of any kind may be granted. After the thirty (30) day period of absolute suspension

of driving privileges has passed, the defendant shall have driving privileges suspended by the court for an additional period of at least sixty (60) days, not to exceed one hundred fifty (150) days during which the defendant may request restricted driving privileges which the court may allow, if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment or for family health needs.

(2) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1) (b), Idaho Code, for the first time is guilty of a misdemeanor and subject to:

(a) The provisions of section 18-8005(1) (a), (b) and (c), Idaho Code; and

(b) The provisions of section 49-335, Idaho Code.

(3) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1) (c), Idaho Code, for the first time, is guilty of a misdemeanor and is subject to:

(a) The provisions of section 18-8005(1) (a), (b) and (c), Idaho Code; and

(b) The provisions of section 49-335, Idaho Code.

(4) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1) (a), (b) or (c), Idaho Code, who previously has been found guilty of or has pled guilty to a violation of the provisions of section 18-8004(1) (a), (b) or (c), Idaho Code, or any substantially conforming foreign criminal violation within ten (10) years, notwithstanding the form of the judgment(s) or withheld judgment(s), and except as provided in section 18-8004C, Idaho Code, is guilty of a misdemeanor; and, except as provided in section 18-8004C, Idaho Code:

(a) Shall be sentenced to jail for a mandatory minimum period of not less than ten (10) days the first forty-eight (48) hours of which must be consecutive, and five (5) days of which must be served in jail, as required by 23 U.S.C. section 164, and may be sentenced to not more than one (1) year, provided however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work detail program within the custody of the county sheriff during the period of incarceration;

(b) May be fined an amount not to exceed two thousand dollars (\$2,000);

(c) Shall be advised by the court in writing at the time of sentencing, of the penalties that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney;

(d) Shall surrender his driver's license or permit to the court;

(e) Shall have his driving privileges suspended by the court for an additional mandatory minimum period of one (1) year after release from confinement, during which one (1) year period absolutely no driving privileges of any kind may be granted; and

(f) Shall, while operating a motor vehicle, be required to drive only a motor vehicle equipped with a functioning ignition interlock system, as provided in section 18-8008, Idaho Code, following the one (1) year mandatory license suspension period.

(5) If the person has pled guilty or was found guilty for the second time within ten (10) years of a violation of the provisions of section 18-8004(1) (b) or (c), Idaho Code, then the provisions of section 49-335, Idaho Code, shall apply.

(6) Except as provided in section 18-8004C, Idaho Code, any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1) (a), (b) or (c), Idaho Code, who previously has been found guilty of or has pled guilty to two (2) or more violations of the provisions of section 18-8004(1) (a), (b) or (c), Idaho Code, or any substantially con-

forming foreign criminal violation, or any combination thereof, within ten (10) years, notwithstanding the form of the judgment(s) or withheld judgment(s), shall be guilty of a felony; and

(a) Shall be sentenced to the custody of the state board of correction for not to exceed ten (10) years; provided that notwithstanding the provisions of section 19-2601, Idaho Code, should the court impose any sentence other than incarceration in the state penitentiary, the defendant shall be sentenced to the county jail for a mandatory minimum period of not less than thirty (30) days, the first forty-eight (48) hours of which must be consecutive, and ten (10) days of which must be served in jail, as required by 23 U.S.C. section 164; and further provided that notwithstanding the provisions of section 18-111, Idaho Code, a conviction under this section shall be deemed a felony;

(b) May be fined an amount not to exceed five thousand dollars (\$5,000);

(c) Shall surrender his driver's license or permit to the court;

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, and may have his driving privileges suspended by the court for not to exceed five (5) years after release from imprisonment, during which time he shall have absolutely no driving privileges of any kind; and

(e) Shall, while operating a motor vehicle, be required to drive only a motor vehicle equipped with a functioning ignition interlock system, as provided in section 18-8008, Idaho Code, following the mandatory one (1) year license suspension period.

(7) Notwithstanding the provisions of subsections (4) (e) and (6) (d) of this section, any person who is enrolled in and is a participant in good standing in a drug court or mental health court approved by the supreme court drug court and mental health court coordinating committee under the provisions of chapter 56, title 19, Idaho Code, or other similar problem solving court utilizing community-based sentencing alternatives, shall be eligible for restricted noncommercial driving privileges for the purpose of getting to and from work, school or an alcohol treatment program, which may be granted by the presiding judge of the drug court or mental health court or other similar problem solving court, provided that the offender has served a period of absolute suspension of driving privileges of at least forty-five (45) days, that an a state approved ignition interlock device system is installed, and for repeat offenders it shall be maintained for not less than one (1) year, on each of the motor vehicles owned or operated, or both, by the offender and that the offender has shown proof of financial responsibility as defined and in the amounts specified in section 49-117, Idaho Code, provided that the restricted noncommercial driving privileges may be continued if the offender successfully completes the drug court, mental health court or other similar problem solving court, and that the court may revoke such privileges for failure to comply with the terms of probation or with the terms and conditions of the drug court, mental health court or other similar problem solving court program.

(8) For the purpose of computation of the enhancement period in subsections (4), (6) and (9) of this section, the time that elapses between the date of commission of the offense and the date the defendant pleads guilty or is found guilty for the pending offense shall be excluded. If the determination of guilt against the defendant is reversed upon appeal, the time that elapsed between the date of the commission of the offense and the date the defendant pleads guilty or is found guilty following the appeal shall also be excluded.

(9) Notwithstanding the provisions of subsections (4) and (6) of this section, any person who has pled guilty or has been found guilty of a felony violation of the provisions of section 18-8004, Idaho Code, a felony violation of the provisions of section 18-8004C, Idaho Code, a violation of the provisions of section 18-8006, Idaho Code, a violation of the provisions of section 18-4006 3.(b), Idaho Code, notwithstanding the form of the

judgment(s) or withheld judgment(s) or any substantially conforming foreign criminal felony violation, notwithstanding the form of the judgment(s) or withheld judgment(s), and within fifteen (15) years pleads guilty or is found guilty of a further violation of the provisions of section 18-8004, Idaho Code, shall be guilty of a felony and shall be sentenced pursuant to subsection (6) of this section.

(10) For the purpose of subsections (4), (6) and (9) of this section and the provisions of section 18-8004C, Idaho Code, a substantially conforming foreign criminal violation exists when a person has pled guilty to or has been found guilty of a violation of any federal law or law of another state, or any valid county, city, or town ordinance of another state substantially conforming to the provisions of section 18-8004, Idaho Code. The determination of whether a foreign criminal violation is substantially conforming is a question of law to be determined by the court.

(11) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, shall undergo, at his own expense, (or at county expense through the procedures set forth in chapters 34 and 35, title 31, Idaho Code,) and prior to the sentencing date, an alcohol evaluation by an alcohol evaluation facility approved by the Idaho department of health and welfare; provided however, if the defendant has no prior or pending charges with respect to the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, and the court has the records and information required under subsections (12) (a), (b) and (c) of this section or possesses information from other reliable sources relating to the defendant's use or nonuse of alcohol or drugs which does not give the court any reason to believe that the defendant regularly abuses alcohol or drugs and is in need of treatment, the court may, in its discretion, waive the evaluation with respect to sentencing for a violation of section 18-8004 or 18-8004C(1), Idaho Code, and proceed to sentence the defendant. The court may also, in its discretion, waive the requirement of an alcohol evaluation with respect to a defendant's first violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, and proceed to sentence the defendant if the court has a presentence investigation report, substance abuse assessment, criminogenic risk assessment, or other assessment which evaluates the defendant's degree of alcohol abuse and need for alcohol treatment conducted within twelve (12) months preceding the date of the defendant's sentencing. In the event an alcohol evaluation indicates the need for alcohol treatment, the evaluation shall contain a recommendation by the evaluator as to the most appropriate treatment program, together with the estimated cost thereof, and recommendations for other suitable alternative treatment programs, together with the estimated costs thereof. The person shall request that a copy of the completed evaluation be forwarded to the court. The court shall take the evaluation into consideration in determining an appropriate sentence. If a copy of the completed evaluation has not been provided to the court, the court may proceed to sentence the defendant; however, in such event, it shall be presumed that alcohol treatment is required unless the defendant makes a showing by a preponderance of evidence that treatment is not required. If the defendant has not made a good faith effort to provide the completed copy of the evaluation to the court, the court may consider the failure of the defendant to provide the report as an aggravating circumstance in determining an appropriate sentence. If treatment is ordered, in no event shall the person or facility doing the evaluation be the person or facility that provides the treatment unless this requirement is waived by the sentencing court, with the exception of federally recognized Indian tribes or federal military installations, where diagnosis and treatment are appropriate and available. Nothing herein contained shall preclude the use of funds authorized pursuant to the provisions of chapter 3, title 39, Idaho Code, for court-ordered alcohol treatment for indigent defendants.

(12) At the time of sentencing, the court shall be provided with the following information:

- (a) The results, if administered, of any evidentiary test for alcohol and/or drugs;
- (b) A computer or teletype or other acceptable copy of the person's driving record;
- (c) Information as to whether the defendant has pled guilty to or been found guilty of violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, or a similar offense within the past five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s); and
- (d) The alcohol evaluation required in subsection (11) of this section, if any.

(13) A minor may be prosecuted for a violation of the provisions of section 18-8004 or 18-8004C, Idaho Code, under chapter 5, title 20, Idaho Code. In addition to any other penalty, if a minor pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1) (a), (b) or (c) or 18-8004C, Idaho Code, he shall have his driving privileges suspended or denied for an additional one (1) year following the end of any period of suspension or revocation existing at the time of the violation, or until he reaches the age of twenty-one (21) years, whichever period is greater. During the period of additional suspension or denial, absolutely no driving privileges shall be allowed.

(14) In the event that the alcohol evaluation required in subsection (11) of this section recommends alcohol treatment, the court shall order the person to complete a treatment program in addition to any other sentence which may be imposed, unless the court determines that alcohol treatment would be inappropriate or undesirable, in which event, the court shall enter findings articulating the reasons for such determination on the record. The court shall order the defendant to complete the preferred treatment program set forth in the evaluation, or a comparable alternative, unless it appears that the defendant cannot reasonably obtain adequate financial resources for such treatment. In that event, the court may order the defendant to complete a less costly alternative set forth in the evaluation, or a comparable program. Such treatment shall, to the greatest extent possible, be at the expense of the defendant. In the event that funding is provided for or on behalf of the defendant by an entity of state government, restitution shall be ordered to such governmental entity in accordance with the restitution procedure for crime victims, as specified under chapter 53, title 19, Idaho Code. Nothing contained herein shall be construed as requiring a court to order that a governmental entity shall provide alcohol treatment at government expense unless otherwise required by law.

(15) Any person who is disqualified, or whose driving privileges have been suspended, revoked or canceled under the provisions of this chapter, shall not be granted restricted driving privileges to operate a commercial motor vehicle.

SECTION 6. That Section 18-8008, Idaho Code, be, and the same is hereby amended to read as follows:

18-8008. IGNITION INTERLOCKS -- ELECTRONIC MONITORING DEVICES. (1) If a person is convicted, is found guilty, pleads guilty or receives a withheld judgment for violating any of the provisions of this chapter and has had any or all of a sentence or fine suspended for the violation, the court, in its discretion, may impose any, some, or all of the sanctions provided for in this section in addition to any other penalty or fine imposed pursuant to this chapter.

(2) The court shall order the person ~~while operating a motor vehicle to drive only a motor vehicle equipped with a functioning~~ to have a state ap-

proved ignition interlock device, and the system installed on each of the motor vehicles owned or operated, or both, by the offender. The restriction shall be for a period not in excess of the time the person is on probation for the offense but not less than one (1) year for repeat offenders. The court shall establish a specific calibration setting at which the ignition interlock device system will prevent the motor vehicle from being started and the period of time that the person shall be subject to the restriction shall be .025. As used in this section, the term "ignition interlock device system" means breath alcohol analyzed ignition equipment interlock device, certified by the transportation department, designed to prevent a motor vehicle from being operated by a person who has consumed an alcoholic beverage. The transportation department shall by rule provide standards for the certification, installation, repair and removal of the devices. The court shall notify the transportation department of its order imposing a sanction pursuant to this subsection. The department shall attach or imprint a notation on the driver's license or other document granting the person restricted driving privileges of any person restricted under this subsection that the person may operate only a motor vehicle equipped with an ignition interlock device system.

(3) The court may order the person to use electronic monitoring devices to record the person's movements if as a condition of probation the person has been given restricted driving privileges between certain times, has been placed under a curfew or has been ordered confined to his residence during times certain. Nothing in this subsection shall restrict the court's usage of electronic monitoring devices to supervise a defendant on probation for other offenses.

(4) If a court orders a defendant to use an ignition interlock device system or electronic monitoring device pursuant to this section, and the court, or its probation department, furnishes the defendant with the device, the court may order the defendant to pay a reasonable fee for utilizing the equipment. All fees collected pursuant to this section shall be in addition to any other fines or penalty provided by law and shall be deposited in the court interlock device and electronic monitoring device fund created in section 18-8010, Idaho Code.

Approved March 11, 2014

CHAPTER 64
(H.B. No. 424)

AN ACT

RELATING TO IRRIGATION DISTRICT DIRECTOR ELECTIONS; AMENDING SECTION 43-201A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CIRCUMSTANCES UNDER WHICH AN ELECTION SHALL NOT BE REQUIRED, TO REMOVE PROVISIONS RELATING TO DELIVERY OF CERTAIN CERTIFICATES OF ELECTION TO A CANDIDATE DECLARED ELECTED BY THE BOARD AND TO PROVIDE FOR CONTINUATION OF INCUMBENT DIRECTORS' TERMS OF OFFICE UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. That Section 43-201A, Idaho Code, be, and the same is hereby amended to read as follows:

43-201A. WHEN ELECTION NOT REQUIRED. ~~In any election for directors if, after the expiration of the date for filing written nominations for the office of director, it appears that~~ If, pursuant to section 43-201, Idaho Code, the secretary of the district verifies that there is only one (1) qualified candidate who has been nominated thereby for a the position of director to

be filled, it shall not be necessary to hold an election for that position, and the board of directors shall declare such candidate elected as director at the next regularly scheduled board meeting following the expiration of the date for filing written nominations. ~~Following the board's declaration, the secretary shall immediately make and deliver to such person a certificate of election signed by him or her and bearing the seal of the district~~ If the secretary of the district verifies that there is no qualified candidate, the incumbent director's term of office shall continue until the director's successor is elected and qualified. The procedure set forth in this section shall not apply to any other irrigation district election.

Approved March 11, 2014

CHAPTER 65
(H.B. No. 425)

AN ACT

RELATING TO WATER DISTRICTS; AMENDING SECTION 42-612, IDAHO CODE, TO PROVIDE THAT WATER USERS MAY PROVIDE FOR AN ANNUAL MINIMUM CHARGE NOT TO EXCEED TWO HUNDRED FIFTY DOLLARS PER WATER USER FOR WATERMASTER SERVICES.

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

SECTION 1. That Section 42-612, Idaho Code, be, and the same is hereby amended to read as follows:

42-612. BUDGET OF WATER DISTRICT -- ADOPTION AND CONTENTS -- DEBT OF WATER USER. (1) At any annual meeting the water users must adopt a budget covering the estimated expenses of delivering the water of the district for the ensuing year, and by resolution determine that the budget shall be collected. The compensation of the watermaster and the watermaster's assistants and any other expenses of delivering the water of the district to the users thereof, including the costs of the advisory committee in implementing resolutions adopted by the water users of the district for activities other than the payment of the salary and operating expenses of the watermaster and assistants, shall be paid in the manner hereinafter, in this section, provided.

(2) To the extent possible, funding for advisory committee expenses associated with implementing resolutions adopted by the water users for other than the payment of the salary and operating expenses of the watermaster and assistants shall come from funds available pursuant to section 42-613A, Idaho Code.

(3) The budget shall show the aggregate amount to be collected from all the water users in the district, and the amount to be paid by each ditch, canal company, irrigation district or other water user. For the purpose of computing the respective amounts, to be paid by each water user, the water delivered to the various ditches, canal companies, irrigation districts or other users during the past season or seasons, not exceeding five (5) seasons, shall be used as a basis.

(4) Upon the adoption of the budget the amount payable by each ditch, canal company, irrigation district or other water user, as shown by the budget, shall become the debt of each respectively and shall become due and payable as hereinafter provided. Other provisions of chapter 6, title 42, Idaho Code, notwithstanding, water users may at the annual meeting by resolution provide for an annual minimum charge not to exceed two hundred fifty dollars (\$250-00) per water user for watermaster services. The minimum charge is applicable whenever the prorated charge against any ditch, canal

company, irrigation district or other water user is less than the minimum charge.

(5) Other provisions of chapter 6, title 42, Idaho Code, notwithstanding, water users at the annual meeting may provide, by resolution, that the respective amounts owed by each water user as shown in the adopted budget shall constitute a final determination of the amount due for that year without the need to carry forward any water user debits or credits to the following year.

Approved March 11, 2014

CHAPTER 66
(H.B. No. 430)

AN ACT

RELATING TO STATE NOXIOUS AND INVASIVE WEED AWARENESS; AMENDING CHAPTER 45, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4513, IDAHO CODE, TO PROVIDE THAT ANNUALLY THE WEEK PRIOR TO THE MEMORIAL DAY WEEK-END SHALL BE IDAHO NOXIOUS AND INVASIVE WEED AWARENESS WEEK; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 45, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-4513, Idaho Code, and to read as follows:

67-4513. STATE NOXIOUS AND INVASIVE WEED AWARENESS WEEK. Every year, starting in 2014, the week prior to the Memorial Day weekend shall hereby be designated as "Idaho Noxious and Invasive Weed Awareness Week." This week shall serve as a week to educate Idaho's citizens about the serious impacts of noxious and invasive plants and their direct impacts to Idaho's economy, waters, lands and agriculture. Those entities already tasked with promoting noxious and invasive weed control and education and outreach are encouraged to lead the charge in celebrating "Idaho Noxious and Invasive Weed Awareness Week" and educating Idaho's citizens to help stop the spread of noxious and invasive weeds.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 11, 2014

CHAPTER 67
(S.B. No. 1205, As Amended)

AN ACT

RELATING TO IDAHO REAL ESTATE LICENSE LAW; AMENDING SECTION 54-2004, IDAHO CODE, TO DEFINE A TERM AND TO REVISE A DEFINITION; AND AMENDING SECTION 54-2018, IDAHO CODE, TO CLARIFY A TIME ZONE AND TO CLARIFY A PERIOD OF TIME.

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

SECTION 1. That Section 54-2004, Idaho Code, be, and the same is hereby amended to read as follows:

54-2004. DEFINITIONS. As used in this chapter:

(1) "Accredited college or university" means an institution accredited by the regional accrediting associations, as reported in the most current publication of the accredited institutions of postsecondary education.

(2) "Acting in this state" means and includes dealing with any interest in real property, or a business opportunity involving an interest in real property, that is situated in the state of Idaho, or conducting or attempting to conduct or solicit real estate business with residents of the state of Idaho.

(3) "Active license" means the status of a real estate license that has not been inactivated, expired, terminated, suspended or revoked.

(4) "Associate broker" means an individual who has qualified personally as a real estate broker in Idaho under this chapter, but is licensed under, associated with and represents a designated broker in the performance of any act described in subsection (35) of this section.

(5) "Branch office" means an office operated by a licensed real estate broker or licensed legal business entity, separate and apart from the main office. A branch office may be licensed or unlicensed, in accordance with this chapter.

(6) "Broker price opinion" means a written price opinion of the estimated price for identified real property prepared or rendered by an actively licensed broker or associate broker, for a purpose other than a prospective listing or sale, and that complies or purports to comply with the requirements and content provision of section 54-4105, Idaho Code.

(7) "Brokerage company" means a real estate business, whether a sole proprietorship, a legal entity, or any other licensed person engaged in acts requiring a real estate license in Idaho, and which is conducting or holding itself out as conducting the business of real estate through a designated broker.

(8) "Brokerage representation agreement" means a written contract between a buyer, seller, or both, and a real estate brokerage for agency representation in a regulated real estate transaction.

(9) "Business conduct and office operations course" means, in reference to a real estate course offering, the component of the advanced real estate course that is required in order to obtain a broker license and that teaches business practices and office operations of the brokerage, including recordkeeping, trust account procedures and the laws governing those practices.

(10) "Business day" means and includes each day of the week except Saturday, Sunday or any other legal holiday enumerated in section 73-108, Idaho Code.

(11) "Business name" means the name in which the brokerage company is licensed by the commission.

(12) "Business opportunity" means and includes an established business, good will of an established business, or any interest therein, or any one (1) or combination thereof, where a sale or transfer of an interest in land including, but not limited to, an assignment of a lease, is involved in the transaction.

(13) "Commission" means the Idaho real estate commission, unless the context clearly indicates a different meaning.

(14) "Commission core course" means, in reference to a real estate course offering, the course containing curriculum, identified by the commission, that stresses current trends in real estate practices and changes in laws in real estate related industries. A core course must contain no more than four (4) classroom hours of instruction.

(15) "Continuing education elective course" means a real estate course offering, other than the commission core course for which continuing education credit hours may be obtained as provided in section 54-2023, Idaho Code.

(16) "Convicted" means a plea of nolo contendere or guilty, a jury verdict of guilty or a court decision of guilt whether or not a judgment or sentence has been imposed, withheld or suspended.

(17) "Cooperative sale" means a transaction involving two (2) or more brokers.

(18) "Council" means the Idaho real estate education council.

(19) "Dealer in options" means any person, firm, partnership, association or corporation who shall directly or indirectly take, obtain or use options to purchase, exchange, lease option or lease purchase real property or any interest therein for another or others whether or not the options shall be in his or its name and whether or not title to the property shall pass through the name of the person, firm, partnership, association or corporation in connection with the purchase, sale, exchange, lease option or lease purchase of the real property, or interest therein.

(20) "Designated broker" means an individual who is licensed as a real estate broker in Idaho and who is designated by the brokerage company to be responsible for the supervision of the brokerage company and the activities of any associated licensees in accordance with this chapter.

(21) "Distance learning course" means, in relation to a real estate course offering, a real estate course that is delivered, not as a live course, but through a medium in which the instructor and student are separated by both distance and time.

(22) "Double contract" means two (2) or more written or unwritten contracts of sale, purchase and sale agreements, loan applications, or any other agreements, one (1) of which is not made known to the prospective loan underwriter or the loan guarantor, to enable the buyer to obtain a larger loan than the true sales price would allow, or to enable the buyer to qualify for a loan which he or she otherwise could not obtain. An agreement or loan application is not made known unless it is disclosed in writing to the prospective loan underwriter or loan guarantor.

(23) "Executive director" means the executive director of the Idaho real estate commission.

(24) "Expired license" means the status of a license when the license period has expired and the license is not renewed or provisional license granted, and before the license is terminated.

(25) "Fee or commission" means a payment, actual, promised or expected, as compensation for the performance of any act requiring a real estate license.

(26) "Inactive license" means the status of a license that is not expired, terminated, suspended or revoked, and during which inactive period the license holder is not authorized to act as or associate with a designated broker.

(27) "Legal business entity" means and includes any type of corporation, partnership, limited liability company or limited liability partnership, a governmental entity, trust or other entity capable of conducting business.

(28) "Licensee" means any person who is licensed in accordance with this chapter to engage in the business or act in the capacity of real estate broker, associate broker or real estate salesperson.

(29) "Limited broker" means a broker individually qualified to do business in Idaho, but who may not have associate brokers or salespersons licensed with that broker.

(30) "Live presentation" means, in reference to a real estate course offering, a real estate course that is personally presented by the instructor and personally attended by the student at the same facility, or, if separated

by distance, the instructor and student are connected by contemporaneous, two-way audio and visual communication.

(31) "Main office" means the principal location where the real estate broker is licensed to transact business.

(32) "Person" means and includes an individual, or any legal business entity.

(33) "Primary Idaho license" means an Idaho real estate license that is not contingent upon continuance of a license in another state or jurisdiction.

(34) "Provisional license" means an extension of the period of active licensure, beyond the licensee's expiration date, granted by the commission for the purpose of allowing the licensee to complete the continuing education requirements set forth in section 54-2023, Idaho Code, or for any other purpose allowed by this chapter.

(35) "Real estate broker" means and includes:

(a) Any person other than a real estate salesperson, who, directly or indirectly, while acting for another, for compensation or a promise or an expectation thereof, engages in any of the following: sells, lists, buys, or negotiates, or offers to sell, list, buy or negotiate the purchase, sale, option or exchange of real estate or any interest therein or business opportunity or interest therein for others;

(b) Any actively licensed broker while, directly or indirectly, acting on the broker's own behalf;

(c) Any person who represents to the public that the person is engaged in any of the above activities;

(d) Any person who directly or indirectly engages in, directs, or takes any part in the procuring of prospects, or in the negotiating or closing of any transaction which does or is calculated to result in any of the acts above set forth;

(e) A dealer in options as defined in this section.

(36) "Real estate salesperson" or "salesperson" means any person who has qualified and is licensed as a real estate salesperson in Idaho under this chapter, and is licensed under, associated with, and represents a designated broker in the performance of any act described in subsection (35) of this section.

(37) "Real estate settlement procedures act" means the real estate settlement procedures act of 1974, as amended, 12 U.S.C. section 2601 et seq., and as in effect on January 1, 2008.

(38) "Regular employee" means an individual who performs a service for wages or other compensation and whose employer withholds federal employment taxes under a contract of hire, written or oral, express or implied.

(39) "Regulated real estate transaction" means those real estate transactions for which a real estate license is required under chapter 20, title 54, Idaho Code.

~~(3940)~~ "Responsible broker" means the designated broker in the regulated real estate transaction who is responsible for the accounting and transaction files for the transaction, in the manner described in section 54-2048, Idaho Code.

~~(401)~~ "Revoked license" means a license that has been permanently revoked by the issuing authority.

~~(412)~~ "Sales associate" means a salesperson or an associate broker licensed under and associated with a designated broker.

~~(423)~~ "State or jurisdiction" means and includes any of the fifty (50) states or territory of the United States, the District of Columbia and any foreign jurisdiction country that issues real estate licenses substantially similar to those provided for in this chapter.

(434) "Successfully completed" means, in reference to a real estate course offering, completing all required course hours and, except where the licensee seeks continuing education credit for having regularly attended

the live presentation of a course, passing a commission-approved final examination.

(445) "Surrendered license" means a license that has been voluntarily terminated or surrendered by a licensee who, at the time of the voluntary termination or surrender, was under investigation or named in a formal administrative complaint.

(456) "Suspended license" means a license that has been temporarily suspended by the issuing authority.

SECTION 2. That Section 54-2018, Idaho Code, be, and the same is hereby amended to read as follows:

54-2018. LICENSE RENEWALS -- INACTIVE LICENSE STATUS -- PERSONAL CHANGES -- EFFECTIVE DATES -- FEES NONREFUNDABLE. (1) Initial license period. Each new license shall be for a period of one (1) year plus the months up to and including the next birth date of the licensee, not to exceed a period of two (2) years, and shall expire on the last day of the month of the birth date of the licensee. A salesperson licensed in this state who applies for and obtains a broker license shall retain the license renewal period and expiration date of his salesperson license. Corporations, partnerships, limited liability companies and other entities defined as "persons" in this chapter shall have established as the equivalent of a birth date, the birth date of its designated broker. Licensed branch offices shall have established as the equivalent of a birth date, the birth date of the designated broker for the branch office.

(2) License renewal. Each license shall be renewable for a period of two (2) years by timely submitting a completed application. Applications must be received at the commission office on or before 5 p.m., mountain time, of the expiration date.

(a) If renewing an active license, the application shall include:

(i) Certification that the applicant has met the commission's continuing education requirements as set forth in section 54-2023, Idaho Code;

(ii) Certification that the applicant has met the mandatory errors and omissions insurance requirement for real estate licensees as set forth in section 54-2013, Idaho Code; and

(iii) Payment of all renewal fees established by this chapter or by the commission.

(b) If renewing an inactive license, the application shall include payment of all renewal fees established by this chapter or by the commission by rule.

(3) Late renewal. If the licensee fails to submit a completed application for renewal or pay the renewal fee on or before the expiration date, the commission may accept a later application or payment of the fee, subject to such conditions as the commission may require including, but not limited to, the assessment of a late fee; provided that between the license expiration date and the date of renewal of the license, the rights of the licensee under such license shall be expired, and during such period of expiration it shall be unlawful for any licensee to do or attempt to offer to do any of the acts of the kind and nature described in the definitions of real estate broker or real estate salesperson in section 54-2004, Idaho Code, in consideration of compensation of any kind or expectation thereof. An expired license that is not renewed within one (1) year of the expiration date shall be automatically terminated by the commission and may not be renewed.

(4) Active and inactive license status. A licensee who is a designated broker or associated with a designated broker shall hold an active license. A licensee who has paid all applicable fees, who is not associated with a designated broker and who holds a current license that is not revoked, suspended or terminated shall hold his license on inactive status. A licensee seeking

to change from active license status to inactive license status shall have the broker submit a change of status application to the commission in the form and manner approved by the commission. During the period that his license is inactive, the licensee shall not engage in the business or act in the capacity of real estate broker, associate broker or salesperson. However, an inactive licensee may receive a referral fee for any referral made during the period his license was active. A licensee may activate an inactive license by meeting each of the following:

- (a) If activating as a sales associate, associating with a designated Idaho broker and having the broker submit an application in the form and manner approved by the commission;
- (b) If activating as a designated broker, establishing an office in the manner required by this chapter and submitting an application in the form and manner approved by the commission;
- (c) Paying any required fees;
- (d) Obtaining and maintaining a policy of errors and omissions insurance as required by section 54-2013, Idaho Code, and in accordance with the rules of the commission and certifying the same; and
- (e) Successfully completing any continuing education requirements, as prescribed in section 54-2023, Idaho Code, and certifying the same for the current license period.

(5) Continuing education. A licensee shall not submit an application to renew a license on active status or to activate an inactive license without having obtained the continuing education credit hours required by section 54-2023, Idaho Code. A licensee who violates this subsection (5) shall be subject to disciplinary action by the commission.

(6) Time required. The commission may request satisfactory proof of continuing education compliance from any licensee who has certified to the commission that he has completed the requirement. The request shall state the time within which the proof must be received at the commission office, which time shall not be less than ten (10) business days.

(7) Satisfactory proof. Upon request from the commission, the licensee shall submit satisfactory proof of having met the continuing education requirement set forth in section 54-2023, Idaho Code. "Satisfactory proof" shall, for each course, consist of documentation:

- (a) Identifying the licensee, the title of the course or challenge exam, the course certification number, the course provider, the number of classroom hours, the completion date of the course or challenge exam, and including:
 - (i) A transcript of the course taken;
 - (ii) A letter from the provider verifying successful completion of the course; or
 - (iii) A course completion certificate; and

- (b) Identifying the course certification approval number to establish that the course is approved for continuing education credit as provided by section 54-2023, Idaho Code. The commission may, in its sole discretion, accept alternative documentation establishing that the course is approved for credit.

(8) Failure to submit proof. A licensee failing to submit satisfactory proof of completing the continuing education requirement after being requested to do so by the commission may have his license inactivated by the commission and shall not be entitled to reactivate the license unless and until he provides to the commission satisfactory proof that he meets the continuing education requirements of section 54-2023, Idaho Code. Nothing in this section shall limit the ability of the commission to investigate or discipline a licensee for violating subsection (5) of this section or for violating any other section of this chapter.

(9) Change in personal information. An individual licensee, whether active or inactive, shall provide written notice to the commission, in the form and manner approved by the commission, of any change of his personal name, address of personal residence or personal telephone number. Notice shall be provided within ten (10) business days of the change. If the licensee has changed his personal name, he shall also submit legal proof of the change and, if an active licensee, he shall have the broker submit the written notice of change to the commission.

(10) Issuance of the license and effective date. A real estate license shall be deemed issued, and any requested license changes shall become effective, when the completed application, attachments, and any required fees are received at and approved by the commission. An application that is incomplete or lacking the required fees shall be returned to the applicant and no license shall be issued until a completed application and all required fees are received at and actually approved by the commission. A brokerage is not required to obtain, display or possess a physical license certificate as evidence of the individual's active licensure; however, the commission may make license certificates available for a fee as authorized by this chapter. A brokerage shall not display or otherwise make available to the public a license certificate for any individual who does not hold an active license with the brokerage.

(11) Fees nonrefundable. No licensee shall be entitled to a refund of any fee after the license or license change has become effective.

Approved March 12, 2014

CHAPTER 68
(S.B. No. 1228)

AN ACT

RELATING TO PUBLIC LIBRARIES; AMENDING SECTION 33-2606, IDAHO CODE, TO REVISE A CODE REFERENCE.

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

SECTION 1. That Section 33-2606, Idaho Code, be, and the same is hereby amended to read as follows:

33-2606. BOARD OF TRUSTEES -- MEETINGS. The board of trustees shall meet at least once in each quarter unless required by city ordinance to meet more frequently. One (1) of the meetings shall be designated as the annual meeting. The purposes of the annual meeting are to elect the officers of the board, to establish a regular meeting date, and to review, amend, repeal or adopt bylaws, policies and procedures. Special meetings may be held from time to time as the board may determine, but written notice thereof shall be given to the members at least two (2) days prior to the day of the meeting. A quorum shall consist of three (3) voting members, but a smaller number may adjourn. All library board meetings are to be held pursuant to the open meeting law, sections 67-2340 through 67-23447, Idaho Code.

Approved March 12, 2014

CHAPTER 69
(S.B. No. 1257)

AN ACT

RELATING TO SCHOOL BUSES; AMENDING SECTION 49-1422, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE COLOR OF SCHOOL BUSES NO LONGER USED FOR THE TRANSPORTATION OF PUPILS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-1422, Idaho Code, be, and the same is hereby amended to read as follows:

49-1422. OVERTAKING AND PASSING SCHOOL BUS. (1) The driver of a vehicle meeting or overtaking from either direction any school bus stopped on the highway shall stop before reaching the school bus when there is in operation on a school bus the visual signals specified in section 49-915, Idaho Code, and the driver of a vehicle shall not proceed until the school bus resumes motion or the visual signals are no longer actuated. Oncoming traffic on a highway of more than three (3) lanes is not required to stop upon meeting a school bus when visual signals are actuated. Any person found guilty of violating the provisions of this subsection shall be fined an amount of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

(2) Every school bus shall be equipped with visual signals meeting the requirements of section 49-915, Idaho Code, which shall be actuated by the driver of the school bus whenever, but only whenever, the vehicle is stopped on the highway for the purpose of receiving or discharging school children. A school bus driver shall not actuate the special visual signals:

- (a) In business districts designated by the department or local authorities; or
- (b) At intersections or other places where traffic is controlled by traffic control signals or peace officers; or
- (c) In designated school bus loading areas where the bus is entirely off the roadway.

(3) Every school bus shall bear upon the front and rear plainly visible signs containing the words "SCHOOL BUS" in letters not less than eight (8) inches in height. When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school all markings thereon indicating "school bus" shall be covered or concealed.

(4) When any school bus is sold and is no longer to be used for the transportation of pupils, before it may again be used on the highways of this state it shall be painted a color other than ~~school bus chrome~~ national school bus glossy yellow, federal standard 595a, color number 13432, and all school bus markings shall be obliterated.

Approved March 12, 2014

CHAPTER 70
(S.B. No. 1280)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-209, IDAHO CODE, TO SPECIFY CONDITIONS FOR SERVICE OF A DIRECTOR, TO REQUIRE NOTICE TO OTHER DIRECTORS UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE FOR THE DETERMINATION OF WHETHER A VACANCY HAS OCCURRED, TO PROVIDE A PROCEDURE UPON

DETERMINATION THAT A VACANCY HAS OCCURRED, TO PROVIDE FOR TEMPORARY CONTINUATION OF SERVICE, TO PROVIDE A RESTRICTION ON CONTINUATION OF SERVICE, TO REVISE PROCEDURES RELATING TO THE FILLING OF A VACANCY AND TO PROVIDE THAT A PERSON FILLING A VACANCY SHALL POSSESS ALL RIGHTS AND POWER AND IS SUBJECT TO ALL LIABILITIES, DUTIES AND OBLIGATIONS OF THE OFFICE.

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

SECTION 1. That Section 43-209, Idaho Code, be, and the same is hereby amended to read as follows:

43-209. VACANCIES. (1) In case of Each director shall meet the qualification requirements of section 43-201(3), Idaho Code, during his term of office. Each director shall notify the other directors if circumstances change so that he will no longer meet those requirements during his term of office, or if any of the events specified in section 59-901, Idaho Code, are occurring or have occurred. The remaining directors shall have the authority to determine whether a vacancy in the office of director has occurred upon the director no longer qualifying to serve as a director as provided in section 43-201(3), Idaho Code, or upon the occurrence of any of the events specified in section 59-901, Idaho Code.

(2) If the remaining directors determine that a vacancy in the office of director has occurred as provided in subsection (1) of this section, the remaining members of the board of directors shall, by resolution, declare that the vacancy shall be filled as herein provided. The remaining directors may allow the disqualified director to remain in office temporarily until his successor is appointed or elected if they determine that they will be unable to conduct the district's affairs without a director serving in that office. The disqualified director shall not remain in office after the district's next regular election.

(3) After declaring a vacancy, the remaining directors shall fill such vacancy by appointing thereto a qualified elector residing within the division in which the vacancy occurred. An officer appointed to fill a vacancy as above provided shall take and subscribe the official oath and execute a bond as provided if one is required in the case of an elected director under section 43-202, Idaho Code, and shall hold his office until the next regular election of said district, at which election a director shall be elected for the remainder of the unexpired term.

(4) Any person filling a vacancy as herein provided shall possess all the rights and powers and is subject to all the liabilities, duties and obligations of the office filled.

Approved March 12, 2014

CHAPTER 71
(S.B. No. 1281)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-116, IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE PROVISIONS RELATING TO SPECIFIED DUTIES OF THE BOARD OF DIRECTORS, TO REMOVE A PROVISION THAT CERTAIN OFFICERS MUST BE RESIDENTS OF THE DISTRICT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 43-206, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 43-209, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 43-401, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 43-602, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS;

AMENDING SECTION 43-730, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 43-1404, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 43-2203, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 43-116, Idaho Code, be, and the same is hereby amended to read as follows:

43-116. ORGANIZATION MEETING OF BOARD. Said board shall cause a copy of such order, duly certified, to be immediately filed for record in the office of the county recorder of each county in which any portion of such lands are situated.

If it shall appear, however, that more than one-third (1/3) of said votes are "Irrigation district--no," then a record of that fact shall be duly entered upon the minutes of said board, and all proceedings in regard to the organization of said district shall be void, and the expenses properly incurred thereunder may be collected on the bond provided for in section 43-104, Idaho Code.

From and after the date of such filing of said order of the board of county commissioners, the organization of such district shall be complete. The ~~officers~~ directors of the district shall be entitled to enter immediately upon the duties of their respective offices, upon qualifying according to law, and shall hold such offices respectively, until their successors are elected and qualified. The board of directors so elected shall meet within thirty (30) days after their election and elect a director to hold the office of president, and shall appoint a secretary and treasurer, who shall perform the duties imposed upon such officers under this title. ~~All officers of the district, except as above provided, must be residents thereof.~~

SECTION 2. That Section 43-206, Idaho Code, be, and the same is hereby amended to read as follows:

43-206. NOTICE OF ELECTION -- APPOINTMENT OF JUDGES. The secretary of the district shall give notice of all elections in said district subsequent to the organization thereof, by posting the same in three (3) public places in each such precinct and in the office of said board, at least four (4) weeks before the day of such election, or by publication of the same once a week for two (2) successive weeks in a newspaper having general circulation within said district. If notice be given by publication in a weekly newspaper the same shall be published in two (2) successive issues thereof, or, if in a daily newspaper, at least six (6) days shall elapse between the first and last dates of publication, and, in either case, publication shall be completed not less than fifteen (15) days before such election. Notices shall state the time of said election and the polling place for each precinct; and the ~~officer~~ director to be elected or other question to be voted upon, as the case may be. At least ten (10) days before the holding of any such election, the board of directors shall appoint three (3) electors of each precinct to serve as judges of election for such precinct, and such judges shall constitute a board of election for such precinct.

A polling place for a precinct need not be located in the precinct, but shall be located within the district. Polling places for two (2) or more precincts may be combined at one (1) location, so long as the physical arrangements of the polling place are sufficient to guarantee all voters the right to cast a secret ballot. Any combined polling place thus created shall be no farther than ten (10) miles outside of the precinct which is losing its polling place. In cases of combined polling places, the board of directors shall name one (1) elector from each of the combined precincts, and they shall constitute the judges of election for that polling place.

SECTION 3. That Section 43-209, Idaho Code, be, and the same is hereby amended to read as follows:

43-209. VACANCIES. In case of a vacancy in the office of director, the remaining members of the board of directors shall fill such vacancy by appointing thereto a qualified elector residing within the division in which the vacancy occurred. An ~~officer~~ director appointed to fill a vacancy as above provided shall take and subscribe the official oath and execute a bond as provided in the case of an elected director and shall hold his office until the next regular election of said district, at which election a director shall be elected for the remainder of the unexpired term.

SECTION 4. That Section 43-401, Idaho Code, be, and the same is hereby amended to read as follows:

43-401. PLAN OF CONSTRUCTION -- ISSUANCE OF BONDS -- INDEBTEDNESS -- ELECTION. As soon as practicable after the organization of any such district the board of directors shall, by a resolution entered on its records, formulate a general plan of its proposed operations, in which it shall state what constructed works or other property it proposes to purchase and the cost of purchasing the same; and further what construction work it proposes to do and how it proposes to raise the funds for carrying out said plan. For the purpose of ascertaining the cost of any such construction work, said board shall cause such surveys, examinations and plans to be made as shall demonstrate the practicability of such plan, and furnish the proper basis for an estimate of the cost of carrying out the same. All such surveys, examinations, maps, plans and estimates, shall be made under the direction of a competent irrigation engineer and certified by him. Said board shall then submit a copy of the same to the department of water resources, and within ninety (90) days thereafter the department shall file a report upon the same with said board, which report shall contain such matters as, in the judgment of the department may be desirable.

Upon receiving said report said board of directors shall proceed to determine the amount of money necessary to be raised, and shall immediately thereafter call a special election, at which shall be submitted to the electors of said district possessing the qualifications hereinafter prescribed the question whether or not the bonds of said district, or the right to enter into an obligation with the United States in the manner hereinafter in this title provided, or whether a contractual arrangement with a money-lending institution in the amount as determined, shall be authorized.

Notice of such election must be given by posting notices in three (3) public places in each election precinct in said district at least four (4) weeks before the date of said election, and by publication of the same once a week for four (4) consecutive weeks in a newspaper having general circulation within the district. Notice given by publication in a weekly newspaper shall be published in four (4) consecutive issues thereof, or if in a daily newspaper, at least six (6) days shall elapse between the first and last dates of publication, and in either case, publication shall be completed not less than fifteen (15) days before the election. Such notice must specify the time of holding the election, the qualifications of voters, the amount of bonds proposed to be issued, and, in case such maps and estimates have been made, it shall further state that copies thereof, and in all cases it shall state that said report of the department of water resources, are on file and open to public inspection by the people of the district, at the office of said board and at the office of the department of water resources.

No person who is not a resident holder of title or evidence of title to lands located and subject to assessment within such district, or the wife or husband of such holder of title or evidence of title, shall be entitled to vote at such election. Otherwise said election must be held and the re-

sults thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this title governing the election of effieers directors: provided, that no informalities in conducting such an election shall invalidate the same if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "bonds--yes" or "bonds--no," or other words equivalent thereto. If two-thirds (2/3) of the votes cast are "bonds--yes" the board of directors shall cause bonds in said amount to be issued; if more than one-third (1/3) of the votes cast at any bond election are "bonds--no" the result of such election shall be so declared and entered of record.

And whenever thereafter said board in its judgment deems it for the best interest of the district that the question of the issuance of bonds in said amount, or any other amount, shall be submitted to the electors, it shall so declare of record in its minutes, and may thereupon submit such questions to said electors in the same manner and with like effect as at such previous election.

SECTION 5. That Section 43-602, Idaho Code, be, and the same is hereby amended to read as follows:

43-602. ELECTION TO AUTHORIZE. Whenever the board of directors shall deem it expedient to issue refunding bonds under the provisions of this chapter, they shall, by resolution duly adopted and made a part of the district records, call a special election of the qualified voters of the district, for the purpose of voting upon the question of authorizing the board of directors of the district to issue such refunding bonds, or the question may be submitted at a general election for district effieers directors.

At any election held under the provisions of this chapter the question of authorizing the refunding of all or any part of the then outstanding bonded indebtedness of the district, including accrued and unpaid interest, may be submitted as one (1) question for determination whether such bonds are of the same or of different issues.

The notice of said election shall be published and posted for the same length of time and in the same manner, and the election shall be conducted and the result thereof determined and declared in all respects, as nearly as may be, in conformity with the provisions of the irrigation district laws of Idaho governing elections authorizing original bond issues. Said election notice shall specify the time and place for holding said election, the amount and date of the bonds to be refunded, the amount of refunding bonds proposed to be issued, the rate of interest they shall bear, and the time or times when the debt evidenced by such refunding bonds shall be paid: provided, that the said time or times shall not extend beyond a period of forty (40) years from the date of said refunding bonds: provided further, that provision may be made, if deemed expedient by the board of directors, for the payment of the principal, with interest, in suitable instalments installments throughout the term of the loan evidenced by said refunding bonds.

At such election the ballots shall contain the words "Refunding bonds--yes" and the words "Refunding bonds--no," and the voter shall answer the question submitted by marking a cross (X) opposite the words expressing his choice.

SECTION 6. That Section 43-730, Idaho Code, be, and the same is hereby amended to read as follows:

43-730. CONTRACTS WITH CITIES, IRRIGATION LATERAL DISTRICTS OR OTHER ENTITIES IN LIEU OF CHARGES, LEVIES AND ASSESSMENTS. The board of directors of an irrigation district shall have the power to enter into a contract in writing with any city, irrigation lateral district or other entity whose boundaries or service area is situated within the boundaries of any irriga-

tion district where water has been purchased, or is being furnished, or shall be furnished, for lands, property or use within the boundaries or service area of such city, irrigation lateral district or other entity by an irrigation district, whereby such city, irrigation lateral district or other entity shall become obligated to pay charges, levies and assessments now provided to be made pursuant to chapter 7, title 43, sections 43-701 through 43-729, Idaho Code, and amendments thereto in lieu of the officers directors of the irrigation district making said charges, levies and assessments.

SECTION 7. That Section 43-1404, Idaho Code, be, and the same is hereby amended to read as follows:

43-1404. PROCEDURE UPON AFFIRMATIVE VOTE. If it appears that a majority of all the votes cast in each of said districts is "Consolidation--yes," said board shall make an order, and enter the same of record in its minutes, establishing said consolidated district, giving its boundaries and designation, and in detail the terms under which the consolidation has been effected, and dividing said consolidated district into three (3) divisions, and shall appoint some person qualified under this title, to act as director for each of said divisions of said district until the next general election for the election of officers directors, when a board of directors shall be elected as provided in section 43-201, Idaho Code: provided, however, that the organization of such district shall not take effect until the first Tuesday of the January following said order of its establishment. If the date provided by law for the election of directors shall come between the date of said order of the board of county commissioners and said first Tuesday of January, then in making such order said board shall designate the board of directors of one (1) of the consolidated districts as a board to take charge of said election, and a director shall in that case be elected for each said division of said consolidated district, and in that case no appointment of directors shall be made by said board of county commissioners.

SECTION 8. That Section 43-2203, Idaho Code, be, and the same is hereby amended to read as follows:

43-2203. ELECTION FOR ISSUING BONDS -- REFERENDUM PETITION. Whenever the board shall by resolution adopted by a four-fifths (4/5) majority of the said board, determine that the interest of said district and the public interest or necessity demand the reconstruction, rehabilitation, replacement and improvement of any dam and other related structures and works together with all necessary appurtenances related thereto, in order to preserve, restore, protect and maintain rights of storage, diversion and delivery of water necessary and appurtenant to the purposes for which such district and other like similarly situated districts were organized and shall set forth the amount of obligation or bonded or other indebtedness proposed to be issued by the district under the provisions of this chapter, said board shall be required to order the submission of the proposition of issuing such obligation or bonded or other indebtedness for the purposes set forth in said resolution to the vote of the qualified electors of the district as defined in section 34-104, Idaho Code, at an election to be held for that purpose only if within fifteen (15) days after the passage of such resolution a referendum petition signed by legal voters equal in number to not less than ten per-cent percent (10%) of the electors of the district, based upon the aggregate vote cast at the general election of officers directors of the district next preceding the filing of such referendum petition, shall be filed with the secretary of the district requesting that an election upon the issuance of such obligation or bonded or other indebtedness be held and conducted under the provisions of this section. Any election required to be held pursuant to a referendum petition filed in accordance with this section

for the purpose of submitting any proposition or propositions of incurring such obligation or indebtedness may be held separately, or may be consolidated or held concurrently with any other election authorized by law. The resolution, in addition to such declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the reconstruction, rehabilitation, replacement or improvement as the case may be, the amount of principal of the indebtedness to be incurred therefor, and the sources of the revenues and assessments pledged to the payment of said bonds, as enumerated in section 43-2201, (D) (1), (2), (3) and (4), Idaho Code. The separate election upon the assessments provided for in section 43-2201 (D) (1), Idaho Code, shall be held at the same time as and shall be combined with any such election required to be held upon the issuance of the bonds pursuant to a referendum petition.

Any such election required to be held hereunder shall be called by resolution, which resolution shall also fix the date upon which such election shall be held, the manner of holding the same and the method of voting for or against the incurring of the indebtedness or issuance of the bonds. Such resolution shall also fix the compensation to be paid the officers of the election and shall designate the precincts and polling places and shall appoint for each polling place, from each precinct from the electors thereof, the officers of such election, which officers shall consist of three (3) judges, one (1) of whom shall act as clerk, who shall constitute a board of election for each polling place. The description of precincts may be made by reference to any order or orders of the board of county commissioners of the county or counties in which the district or any part thereof is situated, or by reference to any previous order, or resolution of the board or by detailed description of such precincts. Precincts established by the boards of the various counties may be consolidated for special elections held hereunder. In the event any such election shall be called to be held concurrently with any other election or shall be consolidated therewith, the resolution calling the election hereunder need not designate precincts or polling places or the names of officers of election, but shall contain reference to the act or order calling such other election and fixing the precincts and polling places and appointing election officers therefrom. The resolution calling the election shall prescribe an official notice of election, which notice shall be published once a week for two (2) consecutive weeks, the last publication of which shall be at least ten (10) days prior to the date set for said election, in a newspaper of general circulation printed and published within the district, and no other or further notice of such election or publication of the names of election officers or of the precincts or polling places need be given or made.

The respective election boards shall conduct the election in their respective precincts in the manner prescribed by law for the holding of district elections to the extent the same shall apply and shall make their returns to the secretary of the district. At any regular or special meeting of the board held not earlier than five (5) days following the date of such election, the returns thereof shall be canvassed and the results thereof declared.

In the event that no referendum petition is filed, or if so filed, if it shall appear from said returns that a two-thirds (2/3) majority of the qualified electors of the district who shall have voted on any proposition submitted hereunder at such election voted in favor of such proposition, the district shall thereupon be authorized to incur such indebtedness or obligations, enter into such contracts or issue and sell such bonds of the district, all for the purpose or purposes and object or objects provided for in the proposition submitted hereunder or in the resolution therefor, and in the amount so provided. Submission of the proposition of incurring such obligation or bonded or other indebtedness at such an election shall not pre-

vent or prohibit submission of the same or other propositions at subsequent election or elections called for such purpose.

Approved March 12, 2014

CHAPTER 72
(S.B. No. 1344)

AN ACT

RELATING TO FLOOD CONTROL; AMENDING SECTION 42-3103, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 42-3114, IDAHO CODE, TO REVISE COMPENSATION AND REIMBURSEMENT PROVISIONS FOR FLOOD CONTROL DISTRICT COMMISSIONERS; AMENDING SECTION 42-3115, IDAHO CODE, TO REVISE AND TO PROVIDE FOR CERTAIN POWERS AND DUTIES OF COMMISSIONERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 31, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-3116, IDAHO CODE, TO REQUIRE FLOOD CONTROL DISTRICTS TO OBTAIN APPROVAL OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES IN THE EVENT ACTIVITIES AND OPERATIONS OF THE DISTRICT WILL ALTER A STREAM CHANNEL AND TO PROVIDE THAT UNDER CERTAIN CIRCUMSTANCES A STREAM CHANNEL ALTERATION PERMIT WILL NOT BE REQUIRED PROVIDED SPECIFIED CONDITIONS ARE MET; AMENDING SECTION 46-1021, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 46-1022, IDAHO CODE, TO PROVIDE THAT LOCAL GOVERNMENT APPROVAL SHALL NOT BE REQUIRED IF A FLOOD CONTROL DISTRICT IS CONDUCTING A FLOOD FIGHT UNDER CERTAIN CONDITIONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 42-3103, Idaho Code, be, and the same is hereby amended to read as follows:

42-3103. DEFINITIONS. Whenever used or referred to in this act, unless a different meaning clearly appears from the context, the following terms shall have the following meanings:

(1-) "Board" or "board of commissioners" means the board of commissioners of the flood control district.

(2-) "Commissioner" means a member of the board of commissioners of the flood control district.

(3-) "Debris removal" means to remove from the channels and banks of streams any artificial debris, plants and other materials that obstruct or are likely to obstruct the flow of water therein and thereby cause flooding or interfere with the lawful diversion and beneficial use of water.

(4) "Department" means the department of water resources, state of Idaho.

4.(5) "Director" means the director of the department of water resources, state of Idaho.

5.(6) "District" means any flood control district organized by authority of this act or prior acts of the Idaho legislature.

(7) "Flood" or "flooding" means the inundation of normally dry land areas with water caused by the overflow or rise of rivers, streams or lakes, and other surface watercourses, or the unusual and rapid accumulation or runoff of surface waters from any source.

(8) "Flooding emergency" means a circumstance in which the board has determined that the district is required to take immediate action to protect life or property from injury or damage resulting from existing or imminent flooding.

(9) "Flood fight" means the activities and operations authorized by the board in response to a flooding emergency.

~~6.~~(10) "State" means the state of Idaho.

(11) "Structural works of improvement" means any undertaking for flood prevention, including structural and land treatment measures, and for the conservation, development, utilization and disposal of water, as provided for in the act of the congress of the United States known as the Watershed Protection and Flood Prevention Act (U.S.C., tit. 16, sections 1001-1008) and acts amendatory thereto.

SECTION 2. That Section 42-3114, Idaho Code, be, and the same is hereby amended to read as follows:

42-3114. COMPENSATION OF COMMISSIONERS. The commissioners of the district shall fix the compensation they shall each receive for their services, not to exceed the sum of twenty one hundred dollars (\$20-00100) per day, and fifteen cents (15¢) per mile for shall fix the reimbursement they shall each receive for their travel and their necessary expenses for each day they shall be away from their place of residence and engaged in the business of their office, subject to the limits provided in section 67-2008, Idaho Code. The commissioners shall present an itemized account under oath on forms prescribed by the board.

SECTION 3. That Section 42-3115, Idaho Code, be, and the same is hereby amended to read as follows:

42-3115. COMMISSIONERS -- POWERS AND DUTIES. The board of commissioners of flood control districts shall have the following powers and duties:

(1-) To annually fix and determine~~7~~, the amount of money required to be raised by taxation to supply funds for costs of construction, costs of operation and maintenance of the work and equipment of the district, and to levy and cause to be collected assessments on real property within the district in an amount not to exceed six hundredths of one percent (.06%) of the market value for assessment purposes on all taxable property within the district, provided however that a higher levy may be approved and ratified by the qualified voters at an election to be held, subject to the provisions of section 34-106, Idaho Code, for that purpose in the same manner as provided for the approval and ratification of contracts, in section 42-3117, Idaho Code, and said levy shall be certified by the board to the board of county commissioners of the county, or counties, in which said district is located, with directions that at the time and in the manner required by law for levying taxes for county purposes, such board, or boards, of county commissioners shall levy such tax upon the market value for assessment purposes of the real property within the boundaries of the district. Such certification of levies shall be prepared and forwarded by the board of the flood control district to the board, or boards, of county commissioners on or before September 1 of each year.

Such levies shall be levied and collected in the manner provided by law, and the moneys collected shall be turned over to the treasurer or treasurers, of the county, or counties, in which said district is located.

Said moneys shall be public funds and subject to the provisions of the public depository laws of the state.

(2-) To employ such personnel as may be necessary to carry out the purposes and objects of this chapter, with the full power to bind said district for the compensation of such personnel.

(3-) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments necessary or convenient to the exercise of its power and to promulgate, amend and repeal rules not consistent with the provisions of this chapter.

(4-) To manage and conduct the business and affairs of the district, both within and without the district.

(5-) ~~To construct, operate and maintain structural works of improvement for the prevention of floodwater and sediment damages, and the conservation, development, utilization, and disposal of water, whether within or without the boundaries of the district, and to enter into contracts for the purposes set forth above of this chapter, provided however, that the board shall purchase goods and services in accordance with the provisions of chapter 28, title 67, Idaho Code. However, where it is determined by order of the board that there is an existing flooding emergency, or where it is determined that the district is in a flood fight resulting from unanticipated conditions, the requirement for sealed competitive bids shall not apply.~~

(6-) To prescribe the duties of officers, agents and employees as may be required.

(7-) To establish the fiscal year of the district and to keep records of all business transactions of the district.

(8-) To prepare a statement of the financial condition of the district at the end of each fiscal year, in a form to be prescribed by the director or by the legislative services office, and to publish in at least one (1) issue of some newspaper published, or in general circulation in the county, or counties, in which such district is located and to file a certified copy of such financial report with the director and the legislative services office on or before February 2 of each year.

(9-) To have an audit of the financial affairs of the district as required in section 67-450B, Idaho Code. A certified copy of said audit shall be filed with the director on or before February 2 following the audit.

(10-) To obtain options upon and acquire by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, and improve any properties acquired; to receive income from such properties and to expend such income in carrying out the purposes and provisions of this chapter; to lease any of its property or interest therein in furtherance of the purposes and provisions of this chapter, provided that no contract or agreement for the acquisition, purchase or repair of personal property involving expenditure in excess of one thousand dollars (\$1,000), shall be entered into without first advertising for sealed competitive bids as herein provided.

(11-) To have the power of eminent domain for the use of the district in the construction, operation, maintenance and upkeep of its structures, waterways, dikes, dams, basins, or any other use necessary in the carrying out of the provisions of this chapter.

(12-) To convey rights-of-way and easements for highways, public roads, public utilities, and for other purposes, over district property, as shall be determined by the board to be in the best interests of the district.

(13-) To convey, by deed, bill of sale, or other appropriate instrument, all of the estate and interest of the district, in any real or personal property. Prior to such sale or conveyance, the board shall have the property appraised by three (3) disinterested residents of the district, which appraisal shall be entered in the minutes of the board. The property may be sold at public auction or at a private sale by sealed competitive bids, as the board shall determine, to the highest cash bidder, provided that in no case shall any property of a district be sold for less than its appraised value. All sales by sealed competitive bids shall be advertised as herein provided.

(14-) To conduct the following activities and operations for the prevention of floodwater and sediment damages, and the conservation, development, utilization and disposal of water, whether within or outside the boundaries of the district:

(a) To construct, operate and maintain structural works of improvement;

(b) To use natural streams and to improve the same for use as a flood control structure. However, in the event that the use of the natural stream involves alteration of the stream channel, no such alteration shall be made by the district until such alteration is approved by the director;

(c) To declare a flooding emergency and fight floods. Provided however, that the extent of any stream channel alteration shall be limited to that amount of work deemed necessary by the board to safeguard life or property, including growing crops during the period of emergency;

(d) To repair and stabilize stream banks;

(e) To remove debris. If the district determines that there is no reasonable means of transporting and disposing of debris outside the mean high water mark of the channel, the district may deposit the debris along the stream banks outside the mean high water mark, and may thereafter dispose of combustible materials removed from the stream by burning in conformance with any applicable permitting requirements of the state of Idaho or local governments, and after reasonable notice to nearby landowners; and

(f) To conduct flood control operations to prevent flooding from the release of water from a canal, ditch or drain upon the request of the owner thereof.

(15-) To enter into contracts or agreements with the United States or any of its officers, agents, or subdivisions, or with the state or any of its officers, agents or political subdivisions, and to cooperate with such governments, persons or agencies in effectuating, promoting and accomplishing the purposes of this chapter, provided that the district has sufficient moneys on hand, or in their budget for the year in which said contract is entered into, to defray the expenditure of funds called for in such contract without the creation of any indebtedness.

Whenever any such contract shall, by its terms, require the expenditure of funds by the district in excess of the moneys on hand or the funds to be realized from ~~their~~ its budget for the year in which said contract is entered into, then such contract may not be entered into by the district until ratified by two-thirds (2/3) of the qualified voters voting at an election to be held, subject to the provisions of section 34-106, Idaho Code, for that purpose, according to the provisions of this chapter.

(16-) To bear its allocated share of the cost of any project resulting from any contract or agreement entered into as provided herein.

(17-) To take over, administer and maintain pursuant to any agreement or contract entered into in accordance with the provisions of this chapter, any flood control project within or without the boundaries of the district undertaken in cooperation with the United States or any of its agencies, or with the state of Idaho or any of its agencies, or any combinations thereof.

(18-) To accept donations, gifts and contributions in money, services, or materials, or otherwise, from the United States or any of its agencies, or the state of Idaho or any of its agencies or any combinations thereof, and to expend such moneys, services, or materials in carrying on its operations.

(19-) To exercise all other powers necessary, convenient or incidental to carrying out the purposes and provisions of the chapter.

SECTION 4. That Chapter 31, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-3116, Idaho Code, and to read as follows:

42-3116. DIRECTOR'S APPROVAL -- WHEN REQUIRED. (1) In the event that the district's activities and operations will alter a stream channel within the meaning of section 42-3802, Idaho Code, the district shall obtain the director's prior approval pursuant to chapter 38, title 42, Idaho Code.

(2) The district's conduct of a flood fight in response to a flooding emergency declared by the board shall not require a stream channel alteration permit, provided the district complies with the emergency waiver procedures consistent with section 42-3808, Idaho Code, and rules promulgated by the Idaho water resource board.

SECTION 5. That Section 46-1021, Idaho Code, be, and the same is hereby amended to read as follows:

46-1021. DEFINITIONS. As used in this act:

(1) "Development" means any ~~manmade~~ man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures, or the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of mobile homes; mining, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of materials; specifically including the construction of dikes, berms and levees. The term "development" does not include the operation, cleaning, maintenance or repair of any ditch, canal, lateral, drain, diversion structure or other irrigation or drainage works that is performed or authorized by the owner thereof pursuant to lawful rights and obligations.

(2) "Flood" means a general or temporary condition of partial or complete inundation of normally dry land areas caused by the overflow or rise of rivers, ~~ocean~~, streams or lakes, or the unusual and rapid accumulation or runoff of surface waters from any source.

(3) "Flood fringe" is that portion of the floodplain outside of the floodway covered by floodwaters during the regulatory flood.

(4) "Floodplain" is the land that has been or may be covered by floodwaters, or is surrounded by floodwater and inaccessible, during the occurrence of the regulatory flood. The riverine floodplain includes the floodway and the flood fringe.

(5) "Floodplain management" is the analysis and integration of the entire range of measures that can be used to prevent, reduce or mitigate flood damage in a given location, and that can protect and preserve the natural, environmental, historical, and cultural values of the floodplain.

(6) "Floodproofing" means the modifications of structures, their sites, building contents and water and sanitary facilities, to keep water out or reduce the effects of water entry.

(7) "Flood protection elevation" means an elevation that shall correspond to the elevation of the one percent (1%) chance flood (one hundred (100) year flood) plus any increased flood elevation due to floodway encroachment, plus any required freeboard.

(8) "Floodway" is the channel of the river or stream and those portions of the floodplain adjoining the channel required to discharge and store the floodwater or flood flows associated with the regulatory flood.

(9) "Freeboard" represents a factor of safety usually expressed in terms of a certain amount of feet above a calculated flood level. Freeboard shall compensate for the many unknown factors that contribute to flood heights greater than the height calculated. These unknown factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and the sedimentation of a river or stream bed.

(10) "Local government," in the context of this chapter, means any county or city having planning and zoning authority to regulate land use within its jurisdiction.

(11) "Mitigation" means any action taken which will reduce the impact, damage or cost of the next flood that occurs.

(12) "Person" means any individual, group of individuals, corporation, partnership, association, political subdivision, public or private agency or entity.

(13) "Regulatory flood" is a flood determined to be representative of large floods known to have occurred in Idaho and which may be expected to occur on a particular stream because of like physical characteristics. The regulatory flood is based upon a statistical analysis of stream flow records available for the watershed or an analysis of rainfall and runoff characteristics in the watershed. In inland areas, the flood frequency of the regulatory flood is once in every one hundred (100) years; this means that in any given year there is a one percent (1%) chance that a regulatory flood may occur or be exceeded.

SECTION 6. That Section 46-1022, Idaho Code, be, and the same is hereby amended to read as follows:

46-1022. LOCAL GOVERNMENTS MAY ADOPT FLOODPLAIN ZONING ORDINANCES. Subject to the availability of adequate mapping and data to properly identify the floodplains, if any, within ~~their~~ its jurisdiction, each local government is encouraged to adopt a floodplain map and floodplain management ordinance which identifies these floodplains and which requires, at a minimum, that any development in a floodplain must be constructed at a flood protection elevation and/or have adequate floodproofing. The local government may regulate all mapped and unmapped floodplains within ~~their~~ its jurisdiction. Nothing in this act shall prohibit a local government from adopting more restrictive standards than those contained in this chapter. Floodplain zoning ordinances shall not regulate the operation, cleaning, maintenance or repair of any ditch, canal, lateral, drain, diversion structure or other irrigation or drainage works that is performed or authorized by the owner thereof pursuant to lawful rights and obligations. If not otherwise exempt from approval, a flood control district's conduct of a "flood fight," as defined in section 42-3103, Idaho Code, shall not require prior local government approval provided all such approvals are obtained within a reasonable time after the imminent flooding event has ended.

Approved March 12, 2014

CHAPTER 73
(S.B. No. 1254)

AN ACT

RELATING TO FIREARMS REGULATION; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 18-3302B, IDAHO CODE, TO PROVIDE PENALTIES FOR CARRYING CONCEALED WEAPONS UNDER THE INFLUENCE OF ALCOHOL OR DRUGS ON A COLLEGE CAMPUS; AMENDING SECTION 18-3302J, IDAHO CODE, TO REVISE THE PREEMPTION OF FIREARMS REGULATION REGARDING COLLEGE CAMPUSES; AMENDING CHAPTER 33, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-3309, IDAHO CODE, TO PROVIDE AUTHORITY OF GOVERNING BOARDS OF PUBLIC COLLEGES AND UNIVERSITIES REGARDING FIREARMS; AND AMENDING CHAPTER 3, TITLE 5, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 5-343, IDAHO CODE, TO PROVIDE CIVIL IMMUNITY OF COLLEGES AND UNIVERSITIES ALLOWING FIREARMS.

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

SECTION 1. LEGISLATIVE INTENT. The Legislature finds that uniform laws, regulations and policies regarding firearms and weapons on state college and university campuses are necessary for public safety. It is the intent of this Legislature to provide for the safety of students, faculty

and staff of state colleges and universities to allow for the possession or carrying of firearms by certain licensed persons on state college and university campuses, with the exception of carrying within student dormitories and residence halls, and within public entertainment facilities, as defined.

SECTION 2. That Section 18-3302B, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302B. CARRYING CONCEALED WEAPONS UNDER THE INFLUENCE OF ALCOHOL OR DRUGS. (1) It shall be unlawful for any person to carry a concealed weapon on or about his person when intoxicated or under the influence of an intoxicating drink or drug. Any violation of the provisions of this section shall be a misdemeanor.

(2) In addition to any other penalty, any person who enters a plea of guilty, who is found guilty or who is convicted of a violation of subsection (1) of this section when such violation occurs on a college or university campus shall have any and all licenses issued pursuant to section 18-3302, 18-3302H or 18-3302K, Idaho Code, revoked for a period of three (3) years and such person shall be ineligible to obtain or renew any such license or use any other license recognized by this state for the same period.

SECTION 3. That Section 18-3302J, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302J. PREEMPTION OF FIREARMS REGULATION. (1) The legislature finds that uniform laws regulating firearms are necessary to protect the individual citizen's right to bear arms guaranteed by amendment 2 of the United States Constitution and section 11, article I of the constitution of the state of Idaho. It is the legislature's intent to wholly occupy the field of firearms regulation within this state.

(2) Except as expressly authorized by state statute, no county, city, agency, board or any other political subdivision of this state may adopt or enforce any law, rule, regulation, or ordinance which regulates in any manner the sale, acquisition, transfer, ownership, possession, transportation, carrying or storage of firearms or any element relating to firearms and components thereof, including ammunition.

(3) A county may adopt ordinances to regulate, restrict or prohibit the discharge of firearms within its boundaries. Ordinances adopted under this subsection may not apply to or affect:

(a) A person discharging a firearm in the lawful defense of person or persons or property;

(b) A person discharging a firearm in the course of lawful hunting;

(c) A landowner and guests of the landowner discharging a firearm, when the discharge will not endanger persons or property;

(d) A person lawfully discharging a firearm on a sport shooting range as defined in section 55-2604, Idaho Code; or

(e) A person discharging a firearm in the course of target shooting on public land if the discharge will not endanger persons or property.

(4) A city may adopt ordinances to regulate, restrict or prohibit the discharge of firearms within its boundaries. Ordinances adopted under this subsection may not apply to or affect:

(a) A person discharging a firearm in the lawful defense of person or persons or property; or

(b) A person lawfully discharging a firearm on a sport shooting range as defined in section 55-2604, Idaho Code.

(5) This section shall not be construed to affect:

(a) The authority of the department of fish and game to make rules or regulations concerning the management of any wildlife of this state, as set forth in section 36-104, Idaho Code; and

(b) The authority of counties and cities to regulate the location and construction of sport shooting ranges, subject to the limitations contained in chapter 26, title 55, Idaho Code; ~~and~~

~~(c) The authority of the board of regents of the university of Idaho, the boards of trustees of the state colleges and universities, the board of professional-technical education and the boards of trustees of each of the community colleges established under chapter 21, title 33, Idaho Code, to regulate in matters relating to firearms.~~

(6) The provisions of this section are hereby declared to be severable. And if any provision is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this section.

SECTION 4. That Chapter 33, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-3309, Idaho Code, and to read as follows:

18-3309. AUTHORITY OF GOVERNING BOARDS OF PUBLIC COLLEGES AND UNIVERSITIES REGARDING FIREARMS. (1) The board of regents of the university of Idaho, the boards of trustees of the state colleges and universities, the board of professional-technical education and the boards of trustees of each of the community colleges established under chapter 21, title 33, Idaho Code, hereby have the authority to prescribe rules and regulations relating to firearms.

(2) Notwithstanding any other provision of state law, this authority shall not extend to regulating or prohibiting the otherwise lawful possession, carrying or transporting of firearms or ammunition by persons licensed under section 18-3302H or 18-3302K, Idaho Code.

(a) However, a person issued a license under the provisions of section 18-3302H or 18-3302K, Idaho Code, shall not carry a concealed weapon:

(i) Within a student dormitory or residence hall; or

(ii) Within any building of a public entertainment facility, provided that proper signage is conspicuously posted at each point of public ingress to the facility notifying attendees of any restriction on the possession of firearms in the facility during the game or event.

(b) As used in this section:

(i) "Public entertainment facility" means an arena, stadium, amphitheater, auditorium, theater or similar facility with a seating capacity of at least one thousand (1,000) persons that is owned or operated by the board of regents of the university of Idaho, a board of trustees of a state college or university, the state board of professional-technical education or a board of trustees of a community college established under chapter 21, title 33, Idaho Code, that is primarily designed and used for artistic, theatrical, cultural, charitable, musical, sporting or entertainment events, but does not include publicly accessible outdoor grounds or rights-of-way appurtenant to the facility, including parking lots within the facility used for the parking of motor vehicles.

(ii) "Student dormitory or residence hall" means a building owned or operated by the board of regents of the university of Idaho, a board of trustees of a state college or university, the state board of professional-technical education or a board of trustees of a community college established under chapter 21, title 33, Idaho Code, located on or within the campus area owned by the university or college to house persons residing on campus as students,

but does not include off-campus housing or publicly accessible outdoor grounds or rights-of-way appurtenant to the building, including parking lots within the building used for the parking of motor vehicles.

(c) The provisions of subsection (2) (a) shall not apply to the following persons:

(i) A person or persons complying with the provisions of section 19-202A, Idaho Code.

(ii) A person or an employee who is authorized to carry a firearm by the university or college board of trustees, board of regents, governing board or a person or entity with authority over the building or facility.

(iii) A person who possesses a firearm for authorized use in an approved program, event, activity or other circumstance approved by a person or entity with authority over the building or facility.

(iv) A person who possesses a firearm in a private vehicle while delivering students, employees or other persons to and from a university, college or public entertainment facility.

(v) An on-duty or off-duty certified peace officer.

(3) Any rule, regulation or policy that is contrary to this section is null and void.

SECTION 5. That Chapter 3, Title 5, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 5-343, Idaho Code, and to read as follows:

5-343. IMMUNITY OF COLLEGES AND UNIVERSITIES ALLOWING FIREARMS. No action shall lie or be maintained for civil damages in any court of this state against the board of regents of the university of Idaho, the boards of trustees of the state colleges and universities, a dormitory housing commission, the board of professional-technical education or the boards of trustees of each of the community colleges established under chapter 21, title 33, Idaho Code, where the claim arises out of the policy of the board or commission to either specifically allow or not prohibit the lawful possession and storage of firearms on its property.

Approved March 12, 2014

CHAPTER 74
(H.B. No. 402)

AN ACT

RELATING TO INCOME TAXES; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3021A, IDAHO CODE, TO PROVIDE FOR THE CALCULATION OF A NET OPERATING LOSS WHEN INCOME IS DETERMINED BY EXCESS INCLUSION INCOME; AMENDING SECTION 63-3027, IDAHO CODE, TO DETERMINE THE INCOME OF A CORPORATION TO BE INCLUDED IN A COMBINED REPORT WHEN ONE OR MORE CORPORATIONS INCLUDED IN A COMBINED REPORT HAVE EXCESS INCLUSION INCOME FOR A TAX YEAR AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3021A, Idaho Code, and to read as follows:

63-3021A. CALCULATION OF NET OPERATING LOSS WHEN TAXABLE INCOME IS DETERMINED BY EXCESS INCLUSION INCOME. When, pursuant to section 63-3011B, Idaho Code, taxable income for any tax year is determined by the amount of excess inclusion income taxable as determined by Internal Revenue Code section 860E, and when the taxpayer would incur a net operating loss or would be entitled to carry forward a net operating loss pursuant to section 63-3022, Idaho Code, except for the effect of the excess inclusion income reported for that tax year, the net operating loss incurred in that tax year or carried forward from an earlier tax year may be taken as deductions in other tax years, subject to the provisions of subsections (b) and (c) of section 63-3022, Idaho Code. In computing the net operating loss that may be used in another tax year, the excess inclusion income recognized as taxable income shall be deducted from gross income or taxable income, as provided by treasury regulation 1.860E-1(a)(1).

SECTION 2. That Section 63-3027, Idaho Code, be, and the same is hereby amended to read as follows:

63-3027. COMPUTING IDAHO TAXABLE INCOME OF MULTISTATE OR UNITARY CORPORATIONS. The Idaho taxable income of any multistate or unitary corporation transacting business both within and without this state shall be computed in accordance with the rules set forth in this section:

(a) As used in this section, unless the context otherwise requires:

(1) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from the acquisition, management, or disposition of tangible and intangible property when such acquisition, management, or disposition constitutes integral or necessary parts of the taxpayer's trade or business operations. Gains or losses and dividend and interest income from stock and securities of any foreign or domestic corporation shall be presumed to be income from intangible property, the acquisition, management, or disposition of which constitutes an integral part of the taxpayer's trade or business; such presumption may only be overcome by clear and convincing evidence to the contrary.

(2) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(3) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(4) "Nonbusiness income" means all income other than business income.

(5) "Sales" means all gross receipts of the taxpayer not allocated under subsections (d) through (h) of this section.

(6) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(b) Any taxpayer having income from business activity which is taxable both within and without this state shall allocate and apportion such net income as provided in this section.

(c) For purposes of allocation and apportionment of income under this section, a taxpayer is taxable in another state if:

(1) In that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) That state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

(d) Rents and royalties from real or tangible personal property, capital gains interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (e) through (h) of this section. Allocable nonbusiness in-

come shall be limited to the total nonbusiness income received which is in excess of any related expenses which have been allowed as a deduction during the taxable year. In the case of allocable nonbusiness interest or dividends, related expenses include interest on indebtedness incurred or continued to purchase or carry assets on which the interest or dividends are nonbusiness income.

(e) (1) Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocable to this state:

(i) If and to the extent that the property is utilized in this state, or

(ii) In their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year, and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(f) (1) Capital gains and losses from sales of real property located in this state are allocable to this state.

(2) Capital gains and losses from sales of tangible personal property are allocable to this state if:

(i) The property had a situs in this state at the time of the sale, or

(ii) The taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(3) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state, unless such gains and losses constitute business income as defined in this section.

(g) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state unless such interest or dividends constitute business income as defined in this section.

(h) (1) Patent and copyright royalties are allocable to this state:

(i) If and to the extent that the patent or copyright is utilized by the payer in this state, or

(ii) If and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patent product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the

copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(i) (1) Notwithstanding the election allowed in article III.1 of the multistate tax compact enacted as section 63-3701, Idaho Code, all business income shall be apportioned to this state under subsection (j) of this section by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus two (2) times the sales factor, and the denominator of which is four (4), except as provided in paragraph (2) of this subsection.

(2) If a corporation, or a parent corporation of a combined group filing a combined report under sections 63-3027 and 63-3701, Idaho Code, is an electrical corporation as defined in section 61-119, Idaho Code, or is a telephone corporation as defined in section 62-603, Idaho Code, all business income of the corporation shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three (3).

(j) (1) In the case of a corporation or group of corporations combined under subsection (t) of this section, Idaho taxable income or loss of the corporation or combined group shall be determined as follows:

(i) From the income or loss of the corporation or combined group of corporations, subtract any nonbusiness income, and add any nonbusiness loss, included in the total,

(ii) Multiply the amounts determined under paragraph (1) (i) of this subsection by the Idaho apportionment percentage defined in subsection (i) of this section, taking into account, where applicable, the property, payroll and sales of all corporations, wherever incorporated, which are included in the combined group. The resulting product shall be the amount of business income or loss apportioned to Idaho.

(2) To the amount determined as apportioned business income or loss under paragraph (1) (ii) of this subsection, add nonbusiness income allocable entirely to Idaho under the provisions of this section or subtract nonbusiness loss allocable entirely to Idaho under this section. The resulting sum is the Idaho taxable income or loss of the corporation.

(3) In the case of a corporation not subject to subsection (t) of this section, the income or loss referred to in paragraph (1) (i) of this subsection, shall be the taxable income of the corporation after making appropriate adjustments under the provisions of section 63-3022, Idaho Code.

(k) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

(1) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

(m) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period, but the state tax commission may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

(n) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

(o) Compensation is paid in this state if:

- (1) The individual's service is performed entirely within the state; or
- (2) The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or
- (3) Some of the service is performed in the state and:
 - (i) The base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or
 - (ii) The base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(p) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

(q) Sales of tangible personal property are in this state if:

- (1) The property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or
- (2) The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and:
 - (i) The purchaser is the United States government, or
 - (ii) The taxpayer is not taxable in the state of the purchaser.

(r) Sales, other than sales of tangible property, are in this state, if:

- (1) The income-producing activity is performed in this state; or
- (2) The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(s) If the allocation and apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the state tax commission may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

- (1) Separate accounting, provided that only that portion of general expenses clearly identifiable with Idaho business operations shall be allowed as a deduction;
- (2) The exclusion of any one (1) or more of the factors;
- (3) The inclusion of one (1) or more additional factors which will fairly represent the taxpayer's business activity in this state; or
- (4) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(t) For purposes of this section and sections 63-3027B through 63-3027E, Idaho Code, the income of two (2) or more corporations, wherever incorporated, the voting stock of which is more than fifty percent (50%) owned directly or indirectly by a common owner or owners, when necessary to accurately reflect income, shall be allocated or apportioned as if the group of corporations were a single corporation, in which event:

- (1) The Idaho taxable income of any corporation subject to taxation in this state shall be determined by use of a combined report which includes the income, determined under subparagraph (2) of this subsection, of all corporations which are members of a unitary business, allocated and apportioned using apportionment factors for all corporations included in the combined report and methods set out in this section. The use of a combined report does not disregard the separate corporate identities of the members of the unitary group. Each corporation which is transacting business in this state is responsible

for its apportioned share of the combined business income plus its nonbusiness income or loss allocated to Idaho, minus its net operating loss carryover or carryback.

(2) The income of a corporation to be included in a combined report shall be determined as follows:

(i) For a corporation incorporated in the United States or included in a consolidated federal corporation income tax return, the income to be included in the combined report shall be the taxable income for the corporation after making appropriate adjustments under the provisions of section 63-3022, Idaho Code;

(ii) For a corporation incorporated outside the United States, but not included in subsection (t) (2) (i) of this section, the income to be included in the combined report shall be the net income before income taxes of such corporation stated on the profit and loss statements of such corporation which are included within the consolidated profit and loss statement prepared for the group of related corporations of which the corporation is a member, which statement is prepared for filing with the United States securities and exchange commission. If the group of related companies is not required to file such profit and loss statement with the United States securities and exchange commission, the profit and loss statement prepared for reporting to shareholders and subject to review by an independent auditor may be used to obtain net income before income taxes. In the alternative, and subject to reasonable substantiation and consistent application by the group of related companies, adjustments may be made to the profit and loss statements of the corporation incorporated outside the United States, if necessary, to conform such statements to tax accounting standards as required by the Internal Revenue Code as if such corporation were incorporated in the United States and required to file a federal income tax return, subject to appropriate adjustments under the provisions of section 63-3022, Idaho Code; and

(iii) If the income computation for a group under subparagraphs (i) and (ii) of this subsection paragraph results in a loss, such loss shall be taken into account in other years, subject to the provisions of subsections (b) and (c) of section 63-3022, Idaho Code; and

(iv) When one (1) or more corporations included in a combined report have excess inclusion income for a tax year that is taxable to those corporations pursuant to section 63-3011B, Idaho Code, the amount of such excess inclusion income shall be reported as the taxable income for those members of the combined group as provided by section 63-3011B, Idaho Code, and any net operating loss for that tax year or carried forward from an earlier tax year may be taken as deductions in other tax years, subject to the provisions of subsections (b) and (c) of section 63-3022, Idaho Code. In computing the net operating loss that may be used in another tax year for that corporation or other member of the combined return group, the excess inclusion income recognized as taxable income shall be deducted from gross income, as provided by treasury regulation 1.860E-1(a) (1).

(u) If compensation is paid in the form of a reasonable cash fee for the performance of management services directly for the United States government at the Idaho national laboratory or any successor organization, separate accounting for that part of the business activity without regard to other activity of the taxpayer in the state of Idaho or elsewhere shall be required; provided that only that portion of general expenses clearly identifiable with Idaho business operations of that activity shall be allowed as a deduction.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2014.

Approved March 13, 2014

CHAPTER 75
(H.B. No. 429)

AN ACT

RELATING TO STUDENT RESIDENCY; AMENDING SECTION 33-2110B, IDAHO CODE, TO REVISE A DEFINITION AND TO REVISE PROVISIONS RELATING TO A PERSON ON MILITARY ORDERS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 33-3717B, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A RESIDENT STUDENT WHO IS A MEMBER OF AN IDAHO NATIVE AMERICAN INDIAN TRIBE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-2110B, Idaho Code, be, and the same is hereby amended to read as follows:

33-2110B. RESIDENCY -- RULES -- APPEAL -- STANDARDS FOR NONRESIDENTS. (1) For purposes of this chapter, a "resident student" is:

(a) Any student whose parents or court-appointed guardians are domiciled in the community college district and provide more than fifty percent (50%) of his support. Domicile, as used in this section, means an individual's true, fixed and permanent home and place of habitation. It is the place where he intends to remain, and to which he expects to return when he leaves without intending to establish a new domicile elsewhere. To qualify under this section, the parents or guardian must have resided continuously in the community college district for twelve (12) months next preceding the opening day of the term for which the student matriculates.

(b) Any student who receives less than fifty percent (50%) of his support from parents or legal guardians who are not residents of the community college district for voting purposes and who has continuously resided in the community college district for twelve (12) months next preceding the opening day of the period of instruction during which he proposes to attend the community college.

(c) The spouse of a person who is classified, or is eligible for classification, as a resident of the community college district for the purposes of attending that community college.

(d) A member of the armed forces of the United States, stationed in the community college district on military orders or who entered service as a resident of the community college district and who has maintained resident status, but is not stationed within the community college district on military orders.

(e) An officer or an enlisted member of the Idaho national guard.

(f) A student whose parents or guardians are members of the armed forces and stationed in the community college district on military orders and who receives fifty percent (50%) or more of support from parents or legal guardians. The student, while in continuous attendance, shall not lose his residence when his parents or guardians are transferred on military orders.

(g) A person separated, under honorable conditions, from the United States armed forces after at least two (2) years of active service, who

at the time of separation designates the community college district as his intended domicile or who has the district as the home of record in service and enters the community college within one (1) year of the date of separation.

(h) Any individual who has been domiciled in the community college district, has qualified and would otherwise be qualified under the provisions of this statute, and who is away from the district for a period of less than one (1) calendar year and has not established legal residence elsewhere, provided a twelve (12) month period of continuous residence has been established immediately prior to departure.

(2) A community college board of trustees shall adopt rules and regulations applicable to their college now or hereafter established to determine residence status of any student and to establish procedures for review of that status.

(3) Appeal from a final determination denying resident status may be initiated by the filing of an action in the district court of the county in which the affected community college is located. An appeal from the district court shall lie as in all civil actions.

(4) Nothing contained herein shall prevent a community college board of trustees from waiving tuition to be paid by nonresident students.

(5) Nothing contained herein shall prevent a community college board of trustees from establishing quotas, standards for admission, standards for readmission, or other terms and requirements governing persons who are not residents for purposes of the first two (2) years of postsecondary education.

SECTION 2. That Section 33-3717B, Idaho Code, be, and the same is hereby amended to read as follows:

33-3717B. RESIDENCY REQUIREMENTS. (1) For any public institution of higher education in Idaho, a "resident student" is:

(a) Any student who has one (1) or more parent or parents or court-appointed guardians who are domiciled in the state of Idaho, and the parent, parents or guardians provide at least fifty percent (50%) of the student's support. Domicile, as used in this section, means that individual's true, fixed and permanent home and place of habitation. It is the place where that individual intends to remain, and to which that individual expects to return when that individual leaves without intending to establish a new domicile elsewhere. To qualify under this section, the parent, parents or guardians must have maintained a bona fide domicile in the state of Idaho for at least twelve (12) months prior to the opening day of the term for which the student matriculates.

(b) Any student, who receives less than fifty percent (50%) of the student's support from a parent, parents or legal guardians and who has continuously resided and maintained a bona fide domicile in the state of Idaho primarily for purposes other than educational for twelve (12) months next preceding the opening day of the term during which the student proposes to attend the college or university.

(c) Subject to subsection (2) of this section, any student who is a graduate of an accredited secondary school in the state of Idaho, and who matriculates at a college or university in the state of Idaho during the term immediately following such graduation regardless of the residence of the student's parent or guardian.

(d) The spouse of a person who is classified, or is eligible for classification, as a resident of the state of Idaho for the purposes of attending a college or university.

(e) A member of the armed forces of the United States who entered service as an Idaho resident and who has maintained Idaho resident status, but is not stationed within the state of Idaho on military orders.

(f) A member of the armed forces of the United States, stationed in the state of Idaho on military orders.

(g) An officer or an enlisted member of the Idaho national guard.

(h) A person separated, under honorable conditions, from the United States armed forces after at least two (2) years of service, who at the time of separation designates the state of Idaho as his intended domicile or who has Idaho as the home of record in service and enters a college or university in the state of Idaho within one (1) year of the date of separation, or who moves to Idaho for the purpose of establishing domicile; provided however, to maintain status as a resident student, such person must actively establish domicile in Idaho within one (1) year of matriculation in a public institution of higher education in Idaho.

(i) The dependent child of a person who qualifies as a resident student under the provisions of subsection (1) (e) through (h) of this section, and who receives at least fifty percent (50%) support from such person shall also be a resident student, and shall not lose that resident status if, after he or she enters a college or university in the state of Idaho, the parent or guardian is transferred out of the state of Idaho on military orders.

(j) Any individual who has been domiciled in the state of Idaho, has qualified and would otherwise be qualified under the provisions of this statute and who is away from the state for a period of less than thirty (30) months and has not established legal residence elsewhere, provided a twelve (12) month period of continuous residence has been established immediately prior to departure; provided however, time spent away from the state while enrolled in a postsecondary education program shall not be included in the thirty (30) months. Such time spent away from the state while enrolled shall include normal academic year breaks, such as summer breaks or breaks between semesters or quarters, that occur prior to the receipt of the postsecondary degree.

(k) ~~A student who is a member of any of the following Idaho Native American Indian tribes, regardless of current domicile, shall be considered an Idaho state resident for purposes of fees or tuition at institutions of higher education: members of the following an Idaho Native American Indian tribes, whose traditional and customary tribal boundaries included portions of the state of Idaho, or whose Indian tribe was granted reserved lands within the state of Idaho: (i) Coeur d'Alene tribe; (ii) Shoshone-Paiute tribes; (iii) Nez Perce tribe; (iv) Shoshone-Bannock tribes; (v) Kootenai tribe. The state board of education shall maintain a list of tribes who meet these requirements.~~

(2) A "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of subsection (1) of this section, and shall include:

(a) A student attending an institution in this state with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one (1) year after the completion of the semester for which such assistance is last provided.

(b) A person who is not a citizen of the United States of America, who does not have permanent or temporary resident status or does not hold "refugee-parolee" or "conditional entrant" status with the United States immigration and naturalization service or is not otherwise permanently residing in the United States under color of the law and who does not also meet and comply with all applicable requirements of this section.

(3) The establishment of a new domicile in Idaho by a person formerly domiciled in another state has occurred if such person is physically present in Idaho primarily for purposes other than educational and can show satisfactory proof that such person is without a present intention to return

to such other state or to acquire a domicile at some other place outside of Idaho. A student who is enrolled for more than eight (8) hours in any semester or quarter during a twelve (12) month period shall be presumed to be in Idaho for primarily educational purposes. Such period of enrollment shall not be counted toward the establishment of a bona fide domicile in this state unless the student proves, in fact, establishment of a bona fide domicile in this state primarily for purposes other than educational. Institutions determining whether a student is domiciled in the state of Idaho primarily for purposes other than educational shall consider, but shall not be limited to, the following factors:

(a) Any of the following, if done for at least twelve (12) months before the term in which the student proposes to enroll as a resident student, proves the establishment and maintenance of domicile in Idaho for purposes other than educational and supports classification of a student as an Idaho resident:

(i) Filing of Idaho state income tax returns covering a period of at least twelve (12) months before the term in which the student proposes to enroll as a resident student;

(ii) Permanent full-time employment or the hourly equivalent thereof in the state of Idaho; or

(iii) Ownership by the student of the student's living quarters.

(b) The following, if done for at least twelve (12) months before the term in which the student proposes to enroll as a resident student, lend support to domiciliary intent and the absence of which indicates a lack of domiciliary intent. By themselves, the following do not constitute sufficient evidence of the establishment and maintenance of a domicile in Idaho for purposes other than educational:

(i) Registration and payment of Idaho taxes or fees on a motor vehicle, mobile home, travel trailer or other item of personal property for which state registration and the payment of a state tax or fee is required;

(ii) Registration to vote for state elected officials in Idaho at a general election;

(iii) Holding an Idaho driver's license;

(iv) Evidence of abandonment of a previous domicile;

(v) Presence of household goods in Idaho;

(vi) Establishment of accounts with Idaho financial institutions; and

(vii) Other similar factors indicating intent to be domiciled in Idaho and the maintenance of such domicile.

(4) The state board of education and the board of regents of the university of Idaho shall adopt uniform and standard rules applicable to all state colleges and universities now or hereafter established to determine resident status of any student and to establish procedures for review of that status.

(5) Appeal from a final determination denying resident status may be initiated by the filing of an action in the district court of the county in which the affected college or university is located; an appeal from the district court shall lie as in all civil actions.

(6) Nothing contained herein shall prevent the state board of education and the board of regents of the university of Idaho from establishing quotas, standards for admission, standards for readmission, or other terms and requirements governing persons who are not residents for purposes of higher education.

(7) For students who apply for special graduate and professional programs including, but not limited to, the WWAMI (Washington, Wyoming, Alaska, Montana, Idaho) regional medical program, the WICHE student exchange programs, Creighton university school of dental science, the university of Utah college of medicine, and the ~~Washington, Oregon, Idaho~~

~~(WOI) Washington-Idaho-Utah (W-I-U) regional program in veterinary medical education medicine,~~ no applicant shall be certified or otherwise designated as a beneficiary of such special program who has not been a resident of the state of Idaho for at least one (1) calendar year previous to the application date.

Approved March 13, 2014

CHAPTER 76
(H.B. No. 440)

AN ACT

RELATING TO PROPERTY TAXES; AMENDING CHAPTER 2, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-205B, IDAHO CODE, TO ESTABLISH SPECIAL PROVISIONS FOR ASSESSMENT OF OPERATING PROPERTY OF RATE REGULATED ELECTRIC UTILITY COMPANIES AND TO PROVIDE FOR RULES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 2, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-205B, Idaho Code, and to read as follows:

63-205B. ASSESSMENT OF OPERATING PROPERTY OF RATE REGULATED ELECTRIC UTILITY COMPANIES. (1) In the assessment of the operating property of rate regulated electric utility companies, the market value shall be determined by the state tax commission by applying applicable law, statutes, property tax administrative rules and the following criteria:

(a) Depending on the weighting placed on the income approach, as described in subsection (1) (d) of this section, no more than twenty percent (20%) weight shall be placed on the cost indicator when utilizing the historic cost less depreciation (HCLD) method in the system value correlation.

(b) In the income approach, income to be capitalized will be normalized, utilizing the gross domestic product implicit price deflator from the United States department of commerce, bureau of economic analysis, by using an average of at least the previous four (4) years' net operating incomes and by adjusting each year's net operating income for unusual nonrecurring items.

(c) In the income approach, a market discount rate will be determined and will include a flotation cost component supported by nationally recognized sources.

(d) A weighting between eighty percent (80%) and one hundred percent (100%) will be placed on the income approach in the system value correlation.

(e) Within the market approach, a sales comparison approach may be used if reliable data is available and appropriate comparison adjustments can be made. No weight will be placed on a stock and debt approach in the system value correlation.

(f) For rate regulated electric utility companies, the weightings prescribed in this section shall control the weightings used in the system correlation or reconciliation.

(2) Subsection (1) (a) of this section shall be construed to mean that the use of no more than twenty percent (20%) weight placed on the cost indicator, when utilizing the HCLD method to calculate the cost approach, accounts for any and all forms of depreciation, including any and all forms of obsolescence and the appraiser shall not consider any further obsolescence.

(3) The state tax commission is hereby authorized to promulgate rules to implement the provisions of this section.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2014.

Approved March 13, 2014

CHAPTER 77
(H.B. No. 442)

AN ACT

RELATING TO PROPERTY TAX ADMINISTRATION; AMENDING SECTION 63-110, IDAHO CODE, TO REVISE THE DATE BY WHICH THE STATE TAX COMMISSION SHALL COMPLETE ITS WORK AS THE STATE BOARD OF EQUALIZATION RELATING TO ASSESSMENT OF OPERATING PROPERTY; AMENDING SECTION 63-317, IDAHO CODE, TO REVISE ADMINISTRATION OF THE OCCUPANCY TAX AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-1706, IDAHO CODE, TO REQUIRE THE COUNTY ASSESSOR TO PROVIDE NOTICE TO TAXPAYERS THAT A YIELD TAX IS DUE AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-110, Idaho Code, be, and the same is hereby amended to read as follows:

63-110. PROPERTY AND SPECIAL TAXES. The state tax commission must complete the equalization of assessments throughout the state on during its meeting as the state board of equalization, after receipt of each county auditor's abstract of the property roll, no later than the fourth Monday of August in the year in which such assessments are made, and, if there is to be a state property tax, shall on that day determine the amount of state property tax which each county must collect and remit to the state, by apportioning the total state property tax among the several counties in the state in the exact proportion that the total equalized valuation of each county, as shown by the property roll for the current year, and the subsequent and missed property rolls for the preceding year, bears to the total equalized valuation of the state from such rolls of all the counties in the state. The state tax commission shall also determine the amount of special state taxes, if any, which each county must collect and remit to the state, and the total amount of such state property and special state taxes found to be due from each county shall be certified to the county auditor of such county by the chairman of the state tax commission, and the county auditor shall, upon receipt of such certificate, file the same in his office; provided, that the total amount of all special state taxes levied for the current year upon property entered upon the subsequent and missed property rolls of each county for such year shall be certified to the county auditor of such county by the chairman of the state tax commission upon receipt of the county auditor's abstract of the subsequent and missed property rolls.

SECTION 2. That Section 63-317, Idaho Code, be, and the same is hereby amended to read as follows:

63-317. OCCUPANCY TAX -- PROCEDURES. (1) All real property subject to property taxation shall be valued and taxed based upon its status as of Jan-

uary 1 of each tax year. Improvements, other than additions to existing improvements, constructed upon real property shall not be subject to property taxation during the year of construction other than that portion actually in place as of January 1 of each calendar year; new manufactured housing shall not be subject to property taxation during the first year of occupancy if occupied after January 1. For the purposes of this section, "new manufactured housing" means manufactured housing, whether real or personal, never previously occupied.

(2) There is hereby levied an occupancy tax upon all newly constructed and occupied residential, commercial and industrial structures, including new manufactured housing, except additions to existing improvements or manufactured housing, prorated for the portion of the year for which the structure was occupied. The occupancy tax shall be upon those improvements or new manufactured housing for that portion of the calendar year in which first occupancy occurs. The occupancy tax does not apply to operating property. Improvements that were exempt as of January 1 of the tax year, but that may be subject to occupancy tax during that tax year, shall not be subject to property tax as otherwise provided in section 63-602Y, Idaho Code. For the purposes of this section, the term "occupied" means:

- (a) Use of the property by any person as a residence including occupancy of improvements or use in storage of vehicles, boats or household goods, provided such use is not solely related to construction or sale of the property; or
- (b) Use of the property for any business or commercial purpose unrelated to the construction and sale of the property; or
- (c) Any possessory use of the property for which the owner received any compensation or consideration.

(3) The owner of any newly constructed improvement or new manufactured housing, as described in this section, upon which no occupancy tax has been charged shall report to the county assessor that the improvement or new manufactured housing has been occupied. As soon as practical after receiving such a report, the county assessor shall appraise and determine the market value for assessment purposes.

(a) At the time the county assessor determines the market value for assessment purposes of any improvement, he shall allow as an offset against the market value of the improvement, the market value of any portion of that improvement which was existing on January 1 and placed upon the property roll.

(b) Upon completion of the appraisal and entry of the appraised value on the occupancy tax roll, which roll shall be prepared for property subject to the occupancy tax, the county assessor shall notify the owner of the appraisal appraised value and their right to appeal the value provided in the appraisal within twenty-eight (28) days of such notification in the manner provided in section 63-501A, Idaho Code, notwithstanding date limitations found in that section, and further shall notify the owner of their right to apply for the exemption provided in sections 63-602G and 63-602X, Idaho Code. If the owner applies for and meets the requirements for such exemption within thirty (30) days of the notification by the county assessor, the exemption shall be extended to the newly constructed and occupied residential structures in compliance with section 63-602G, Idaho Code, notwithstanding limitations requiring occupancy as of April 15 of the tax year.

(c) In the event that the owner fails to report to the county assessor that the property is ready for occupancy, the assessor shall notify the county board of equalization, who may impose as penalty an additional amount equal to five percent (5%) of the tax for each month following the date of first occupancy during which the report is not made, to a maximum of twenty-five percent (25%) of the tax.

(4) Appeals of the market value for assessment purposes shall be resolved in the same manner as all other appeals of valuation by the board of equalization.

(5) The occupancy tax calculated upon the values set by the county assessor, and any penalty imposed by the board of equalization shall be collected in the same manner as all other property taxes.

(6) An occupancy tax lien shall be imposed in the manner provided in section 63-206, Idaho Code.

(7) Occupancy taxes shall be billed, collected and distributed in the same manner as all other property taxes.

SECTION 3. That Section 63-1706, Idaho Code, be, and the same is hereby amended to read as follows:

63-1706. YIELD TAX ON APPLICABLE FOREST PRODUCTS. (1) All forest lands designated by the owner to be subject to the provisions of section 63-1703(b), Idaho Code, shall be appraised, assessed and taxed according to the provisions of this section.

(2) Forest lands held in private ownership and designated by the owner to be subject to the provisions of this section for property taxation shall be valued by the county assessor as real property at rates which reflect only bare forest land value as determined under rules of the state tax commission.

(3) All timber severed from lands subject to the provisions of this section and delivered to a point of utilization as logs or semiprocessed forest products, shall be subject to a forest products yield tax. This yield tax is in lieu of and replacement for, and not in addition to, property taxes on timber.

(4) The yield tax rate shall be three percent (3%) of stumpage value as determined by the state tax commission. In establishing stumpage values, the state tax commission shall:

(a) Divide the state into appropriate stumpage value zones, with each zone designated so as to recognize the uniqueness of timber marketing areas.

(b) By November 1, set stumpage values by zone for each species and/or product, for use in the reporting and payment of yield taxes for timber severed during the following calendar year. Stumpage values shall be based on a five (5) year rolling average value of comparable timber harvested from state timber sales within the stumpage value zone and/or the best available data for the same five (5) year period.

(5) Report and payment of yield taxes become the direct liability and responsibility of the landowner at the time of severance. At the time of severance the yield taxes become a perpetual lien on the real and personal property of the landowner. Yield tax amounts shall be calculated by the county assessor on forms prescribed by the state tax commission. Yield tax amounts shall be supplied by the county assessor to the county tax collector on or before November 15 for timber that was severed from January 1 through June 30. The county tax collector shall, by the fourth Monday in November, notify the landowner of any such yield tax amount with payments due and payable on or before December 20. If the taxes due for said period are not paid on or before December 20, the payment becomes delinquent and subject to late charges and interest in the amount provided in sections 63-201 and 63-1001 or 63-904, Idaho Code, calculated from the following January 1. Yield tax amounts shall be supplied by the county assessor to the county tax collector on or before May 15 for timber severed from July 1 through December 31 in the year following severance. The county tax collector shall, by the fourth Monday in May, notify the landowner of any such yield tax amount with payments due on or before June 20 in the year following severance. If the yield taxes due for said period are not paid on or before June 20, the payment becomes delinquent and subject to late charges and interest in the amount provided in sections

63-201 and 63-1001 or 63-904, Idaho Code, calculated from the following July 1. Delinquent yield taxes shall remain a lien against the land from which the timber was harvested and against any other real and personal property of the landowner who owned the land at the time of severance. To collect delinquent yield taxes, the treasurer may use either the personal or real property collection procedures provided in title 63, Idaho Code.

(6) All yield tax revenues and any late charges or interest thereon shall be apportioned among the several county funds and taxing districts as provided for the apportionment of property taxes.

(7) The party utilizing logs or semiprocessed forest products as raw materials shall be required to report the quantity, species and source of all such materials to the Idaho department of lands. Such report shall be structured to comply with and act as a simultaneous report of data already required under the provisions of section 38-122, Idaho Code. The report format shall include the identification of the forest landowner at the source, legal description of the source, timber or product owner at time of severance, harvester and volume of forest products severed. The Idaho department of lands shall deliver to the various county assessors without fee, copies of these reports as they are available. In the event the point of utilization lies out of the state or a report is not required under the provisions of section 38-122, Idaho Code, the timber owner at time of severance shall be responsible for the reporting of the above-stated data to the department of lands.

(8) If reports required by this section are found to be intentionally false or when appropriate reports are not made, the assessor shall value the forest crop harvested, based on the best available estimates.

(9) Not reporting timber or forest products delivery or receipt as required by this section shall be deemed a misdemeanor.

(10) Buildings and other improvements, other than roads, located on forest lands shall be appraised, assessed and taxed as provided by applicable law and rules.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2013.

Approved March 13, 2014

CHAPTER 78
(H.B. No. 422)

AN ACT

RELATING TO UNIFORM CONTROLLED SUBSTANCES; AMENDING SECTION 37-2744, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE SUPERVISION OF THE DESTRUCTION OF CERTAIN PROPERTY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 37-2744, Idaho Code, be, and the same is hereby amended to read as follows:

37-2744. FORFEITURES. (a) The following are subject to forfeiture:

(1) All controlled substances which have been manufactured, distributed, dispensed, acquired, possessed or held in violation of this act or with respect to which there has been any act by any person in violation of this act;

- (2) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substances or counterfeit substances in violation of this act;
- (3) All property which is used, or intended for use, as a container for property described in paragraph (1) or (2) hereof of this section;
- (4) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, delivery, receipt, possession or concealment, for the purpose of distribution or receipt of property described in paragraph (1) or (2) hereof of this section, but:
- (A) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this act;
- (B) No conveyance is subject to forfeiture under this section if the owner establishes that he could not have known in the exercise of reasonable diligence that the conveyance was being used, had been used, was intended to be used or had been intended to be used in any manner described in subsection (a) (4) of this section;
- (C) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the security interest was created without any knowledge or reason to believe that the conveyance was being used, had been used, was intended to be used, or had been intended to be used for the purpose alleged.
- (5) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this act.
- (6) (A) All moneys, currency, negotiable instruments, securities or other items easily liquidated for cash, such as, but not limited to, jewelry, stocks and bonds, or other property described in paragraphs (2) and (3) hereof, found in close proximity to property described in paragraph (1), (2), (3), (5), (7) or (8) of subsection (a) of this section or which has been used or intended for use in connection with the illegal manufacture, distribution, dispensing or possession of property described in paragraph (1), (2), (3), (5), (7) or (8) of subsection (a) of this section;
- (B) Items described in paragraph (6) (A) above of this subsection or other things of value furnished or intended to be furnished by any person in exchange for a contraband controlled substance in violation of this chapter, all proceeds, including items of property traceable to such an exchange, and all moneys or other things of value used or intended to be used to facilitate any violation of this chapter, except that no property shall be forfeited under this paragraph to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.
- (7) All drug paraphernalia as defined by section 37-2701, Idaho Code.
- (8) All simulated controlled substances, which are used or intended for use in violation of this chapter.
- (9) All weapons, or firearms, which are used in any manner to facilitate a violation of the provisions of this chapter.
- (b) Property subject to forfeiture under this chapter may be seized by the director, or any peace officer of this state, upon process issued by any district court, or magistrate's division thereof, having jurisdiction over the property. Seizure without process may be made if:

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal racketeering or civil forfeiture proceeding based upon a violation of this chapter;

(3) Probable cause exists to believe that the property is directly or indirectly dangerous to health or safety; or

(4) Probable cause exists to believe that the property was used or is intended to be used in violation of this chapter.

(c) In the event of seizure pursuant to subsection (b) of this section, proceedings under subsection (d) of this section shall be instituted promptly.

(1) When property is seized under this section, the director or the peace officer who seized the property may:

(A) Place the property under seal;

(B) Remove the property to a place designated by it; or

(C) Take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(2) The peace officer who seized the property shall within five (5) days notify the director of such seizure.

(3) In the event of seizure pursuant to subsection (b) of this section, proceedings under subsection (d) of this section shall be instituted within thirty (30) days by the director or appropriate prosecuting attorney.

(d) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the director, or appropriate prosecuting attorney, subject only to the orders and decrees of the district court, or magistrate's division thereof, having jurisdiction over the forfeiture proceedings. Forfeiture proceedings shall be civil actions against the property subject to forfeiture and the standard of proof shall be preponderance of the evidence.

(1) All property described in paragraphs (1), (7) and (8) of subsection (a) hereof of this section shall be deemed contraband and shall be summarily forfeited to the state. Controlled substances which are seized or come into possession of the state, the owners of which are unknown, shall be deemed contraband and shall be summarily forfeited to the state.

(2) When property described in paragraphs (2), (3), (4), (5) and (6) of subsection (a) hereof of this section is seized pursuant to this section, forfeiture proceedings shall be filed in the office of the clerk of the district court for the county wherein such property is seized. The procedure governing such proceedings shall be the same as that prescribed for civil proceedings by the Idaho Rules of Civil Procedure. The court shall order the property forfeited to the director, or appropriate prosecuting attorney, if he determines that such property was used, or intended for use, in violation of this chapter, or, in the case of items described in paragraph (6) (A) of subsection (a), was found in close proximity to property described in paragraph (1), (2), (3), (5), (7) or (8) of subsection (a) of this section.

(3) When conveyances, including aircraft, vehicles, or vessels are seized pursuant to this section a complaint instituting forfeiture proceedings shall be filed in the office of the clerk of the district court for the county wherein such conveyance is seized.

(A) Notice of forfeiture proceedings shall be given each owner or party in interest who has a right, title, or interest which in the case of a conveyance shall be determined by the record in the Idaho transportation department or a similar department of another state if the records are maintained in that state, by

-serving a copy of the complaint and summons according to one (1) of the following methods:

(I) Upon each owner or party in interest by mailing a copy of the complaint and summons by certified mail to the address as given upon the records of the appropriate department.

(II) Upon each owner or party in interest whose name and address is known, by mailing a copy of the notice by registered mail to the last known address.

(B) Within twenty (20) days after the mailing or publication of the notice, the owner of the conveyance or claimant may file a verified answer and claim to the property described in the complaint instituting forfeiture proceedings.

(C) If at the end of twenty (20) days after the notice has been mailed there is no verified answer on file, the court shall hear evidence upon the fact of the unlawful use, or intent to use, and shall order the property forfeited to the director, or appropriate prosecuting attorney, if such fact is proved.

(D) If a verified answer is filed, the forfeiture proceeding shall be set for hearing before the court without a jury on a day not less than thirty (30) days therefrom; and the proceeding shall have priority over other civil cases.

(I) At the hearing any owner who has a verified answer on file may show by competent evidence that the conveyance was not used or intended to be used in any manner described in subsection (a) (4) of this section.

(II) At the hearing any owner who has a verified answer on file may show by competent evidence that his interest in the conveyance is not subject to forfeiture because he could not have known in the exercise of reasonable diligence that the conveyance was being used, had been used, was intended to be used or had been intended to be used in any manner described in subsection (a) (4) of this section.

(III) If the court finds that the property was not used or was not intended to be used in violation of this act, or is not subject to forfeiture under this act, the court shall order the property released to the owner as his right, title, or interest appears on records in the appropriate department as of the seizure.

(IV) An owner, co-owner or claimant of any right, title, or interest in the conveyance may prove that his right, title, or interest, whether under a lien, mortgage, conditional sales contract or otherwise, was created without any knowledge or reason to believe that the conveyance was being used, had been used, was intended to be used, or had been intended to be used for the purpose alleged;

(i) In the event of such proof, the court shall order the conveyance released to the bona fide or innocent owner, purchaser, lienholder, mortgagee, or conditional sales vendor. The court may order payment of all costs incurred by the state or law enforcement agency as a result of such seizure.

(ii) If the amount due to such person is less than the value of the conveyance, the conveyance may be sold at public auction by the director or appropriate prosecuting attorney. The director, or appropriate prosecuting attorney, shall publish a notice of the sale by at least one (1) publication in a newspaper published and circulated in the city, community or locality where the sale is to take place at least one

(1) week prior to sale of the conveyance. The proceeds from such sale shall be distributed as follows in the order indicated:

1. To the bona fide or innocent owner, purchaser, conditional sales vendor, lienholder or mortgagee of the conveyance, if any, up to the value of his interest in the conveyance.

2. The balance, if any, in the following order:

A. To the director, or appropriate prosecuting attorney, for all expenditures made or incurred by it in connection with the sale, including expenditure for any necessary repairs, storage, or transportation of the conveyance, and for all expenditures made or incurred by him in connection with the forfeiture proceedings including, but not limited to, expenditures for witnesses' fees, reporters' fees, transcripts, printing, traveling and investigation.

B. To the law enforcement agency of this state which seized the conveyance for all expenditures for traveling, investigation, storage and other expenses made or incurred after the seizure and in connection with the forfeiture of any conveyance seized under this act.

C. The remainder, if any, to the director for credit to the drug and driving while under the influence enforcement donation fund or to the appropriate prosecuting attorney for credit to the local drug enforcement donation fund, or its equivalent.

(iii) In any case, the director, or appropriate prosecuting attorney, may, within thirty (30) days after judgment, pay the balance due to the bona fide lienholder, mortgagee or conditional sales vendor and thereby purchase the conveyance for use to enforce this act.

(e) When property is forfeited under this section, or is received from a federal enforcement agency, the director, or appropriate prosecuting attorney, may:

(1) Retain it for official use;

(2) Sell that which is not required to be destroyed by law and which is not harmful to the public.

The director, or appropriate prosecuting attorney, shall publish a notice of the sale by at least one (1) publication in a newspaper published and circulated in the city, community or locality where the sale is to take place at least one (1) week prior to sale of the property. The proceeds from such sale shall be distributed as follows in the order indicated:

(A) To the director, or prosecuting attorney on behalf of the county or city law enforcement agency, for all expenditures made or incurred in connection with the sale, including expenditure for any necessary repairs, maintenance, storage or transportation, and for all expenditures made or incurred in connection with the forfeiture proceedings including, but not limited to,

expenditures for witnesses' fees, reporters' fees, transcripts, printing, traveling and investigation.

(B) To the law enforcement agency of this state which seized the property for all expenditures for traveling, investigation, storage and other expenses made or incurred after the seizure and in connection with the forfeiture of any property seized under this act.

(C) The remainder, if any, to the director for credit to the drug and driving while under the influence enforcement donation fund or to the appropriate prosecuting attorney for credit to the local agency's drug enforcement donation fund; or

(3) Take custody of the property and remove it for disposition in accordance with law; ~~or.~~

(f) (1) The director or any peace officer of this state seizing any of the property described in paragraphs (1) and (2) of subsection (a) of this section shall cause a written inventory to be made and maintain custody of the same until all legal actions have been exhausted unless such property has been placed in lawful custody of a court or state or federal law enforcement agency. After all legal actions have been exhausted with respect to such property, the property shall be surrendered by the court, law enforcement agency, or person having custody of the same to the director to be destroyed pursuant to paragraph (2) hereof of this subsection. The property shall be accompanied with a written inventory on forms furnished by the director.

(2) All property described in paragraphs (1) and (2) of subsection (a) which is seized or surrendered under the provisions of this act may be destroyed after all legal actions have been exhausted. The destruction shall be done under the supervision of the ~~supervisory drug analyst of the Idaho state police,~~ by a representative of the office of the director and a representative of the state board of pharmacy. An official record listing the property destroyed and the location of destruction shall be kept on file at the office of the director. Except, however, that the director of the Idaho state police or his designee may authorize the destruction of drug or nondrug evidence, or store those items at government expense when, in the opinion of the director or his designee, it is not reasonable to remove or transport such items from the location of the seizure for destruction. In such case, a representative sample will be removed and preserved for evidentiary purposes and, when practicable, destroyed as otherwise is in accordance with this chapter. On-site destruction of such items shall be witnessed by at least two (2) persons, one (1) of whom shall be the director or his designee who shall make a record of the destruction.

(g) Species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of this act, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the state.

(h) The failure, upon demand by the director, or his duly authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

(i) The director shall have the authority to enter upon any land or into any dwelling pursuant to a search warrant, to cut, harvest, carry off or destroy such plants described in subsection (g) hereof of this section.

CHAPTER 79
(H.B. No. 396)

AN ACT

RELATING TO UNIFORM CONTROLLED SUBSTANCES; AMENDING SECTION 37-2701, IDAHO CODE, TO DEFINE A TERM, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 37-2716, IDAHO CODE, TO PROVIDE THAT CERTAIN PRESCRIBERS SHALL REGISTER FOR ONLINE ACCESS TO THE CONTROLLED SUBSTANCES PRESCRIPTIONS DATABASE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 37-2726, IDAHO CODE, TO PROVIDE THAT CERTAIN PRESCRIBERS SHALL REGISTER FOR ONLINE ACCESS TO THE CONTROLLED SUBSTANCES PRESCRIPTIONS DATABASE.

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

SECTION 1. That Section 37-2701, Idaho Code, be, and the same is hereby amended to read as follows:

37-2701. DEFINITIONS. As used in this act ~~chapter~~:

(a) "Administer" means the direct application of a controlled substance whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(1) A practitioner ~~(or, in his presence, by his authorized agent)~~; or

(2) The patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(c) "Board" means the state board of pharmacy created in chapter 17, title 54, Idaho Code, or its successor agency.

(d) "Bureau" means the ~~Bureau of Narcotic and Dangerous Drugs~~ drug enforcement administration, United States ~~D~~epartment of ~~J~~ustice, or its successor agency.

(e) "Controlled substance" means a drug, substance, or immediate precursor in schedules I through VI of article II of this act ~~chapter~~.

(f) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(g) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one (1) person to another of a controlled substance, whether or not there is an agency relationship.

(h) "Director" means the director of the Idaho state police.

(i) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(j) "Dispenser" means a practitioner who dispenses.

(k) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(l) "Distributor" means a person who distributes.

(m) "Drug" means (1) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation,

treatment or prevention of disease in man or animals; (3) substances, ~~other than food~~, intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

(n) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this act chapter. It includes, but is not limited to:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

(i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) Water pipes;

(iii) Carburetion tubes and devices;

(iv) Smoking and carburetion masks;

(v) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

(vi) Miniature cocaine spoons, and cocaine vials;

(vii) Chamber pipes;

- (viii) Carburetor pipes;
- (ix) Electric pipes;
- (x) Air-driven pipes;
- (xi) Chillums;
- (xii) Bongs;
- (xiii) Ice pipes or chillers;

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;
2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;
3. The proximity of the object, in time and space, to a direct violation of this act chapter;
4. The proximity of the object to controlled substances;
5. The existence of any residue of controlled substances on the object;
6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this act chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this act chapter shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
7. Instructions, oral or written, provided with the object concerning its use;
8. Descriptive materials accompanying the object which explain or depict its use;
9. National and local advertising concerning its use;
10. The manner in which the object is displayed for sale;
11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
13. The existence and scope of legitimate uses for the object in the community;
14. Expert testimony concerning its use.

(o) "Financial institution" means any bank, trust company, savings and loan association, savings bank, mutual savings bank, credit union, or loan company under the jurisdiction of the state or under the jurisdiction of an agency of the United States.

(p) "Immediate precursor" means a substance which the board has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(q) "Isomer" means the optical isomer, except as used in section 37-2705(d), Idaho Code.

(r) "Law enforcement agency" means a governmental unit of one (1) or more persons employed full-time or part-time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(s) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, and includes extraction, directly or indirectly, from substances of natural

origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance:

(1) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(2) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for delivery.

(t) "Marijuana" means all parts of the plant of the genus *Cannabis*, regardless of species, and whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. It does not include the mature stalks of the plant unless the same are intermixed with prohibited parts thereof, fiber produced from the stalks, oil or cake made from the seeds or the achene of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, (except the resin extracted therefrom or where the same are intermixed with prohibited parts of such plant), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination. Evidence that any plant material or the resin or any derivative thereof, regardless of form, contains any of the chemical substances classified as tetrahydrocannabinols shall create a presumption that such material is "marijuana" as defined and prohibited herein.

(u) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause 1, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(v) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section 37-2702, Idaho Code, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(w) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(x) "Peace officer" means any duly appointed officer or agent of a law enforcement agency, as defined herein, including, but not limited to, a duly appointed investigator or agent of the Idaho state police, an officer or employee of the board of pharmacy, who is authorized by the board to enforce this act chapter, an officer of the Idaho state police, a sheriff or deputy sheriff of a county, or a marshal or policeman of any city.

(y) "Person" means individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(z) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(aa) "Practitioner" means:

(1) A physician, dentist, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of his professional practice or research in this state;

(2) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of ~~their~~ its professional practice or research in this state.

(bb) "Prescriber" means an individual currently licensed, registered or otherwise authorized to prescribe and administer controlled substances in the course of professional practice.

(cc) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(ce) "Simulated controlled substance" means a substance that is not a controlled substance, but which by appearance or representation would lead a reasonable person to believe that the substance is a controlled substance. Appearance includes, but is not limited to, color, shape, size, and markings of the dosage unit. Representation includes, but is not limited to, representations or factors of the following nature:

(1) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;

(2) Statements made to the recipient that the substance may be resold for inordinate profit; or

(3) Whether the substance is packaged in a manner normally used for illicit controlled substances.

(de) "State," when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

(ee) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

(ff) "Utility" means any person, association, partnership or corporation providing telephone and/or communication services, electricity, natural gas or water to the public.

SECTION 2. That Section 37-2716, Idaho Code, be, and the same is hereby amended to read as follows:

37-2716. REGISTRATION REQUIREMENTS. (a) Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, must obtain annually a registration issued by the board in accordance with its rules. A copy of each registration issued shall be transmitted by the board to the director of the Idaho state police.

(b) Every prescriber, except veterinarians, must annually register with the board to obtain online access to the controlled substances prescriptions database. Such registration shall be completed upon renewal for existing controlled substance registrants and at the time of registration for first-time registrants.

(c) Persons registered by the board under this act chapter to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with

those substances to the extent authorized by their registration and in conformity with the other provisions of this article.

(ed) The following persons need not register and may lawfully possess controlled substances under this act chapter:

(1) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if he is acting in the usual course of his business or employment;

(2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(3) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a schedule V substance.

(de) The board may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.

(ef) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(fg) The board may inspect the establishment of a registrant or applicant for registration in accordance with the board rule.

SECTION 3. That Section 37-2726, Idaho Code, be, and the same is hereby amended to read as follows:

37-2726. FILING PRESCRIPTIONS -- DATABASE. (1) All controlled substances dispensed for humans shall be filed with the board electronically in a format established by the board or by other method as required by board rule. The board may require the filing of other prescriptions by board rule. The board shall establish by rule the information to be submitted pursuant to the purposes of this section and the purposes set forth in section 37-2730A, Idaho Code.

(2) The board shall create, operate and maintain a controlled substances prescriptions database containing the information submitted pursuant to subsection (1) of this section, to be used for the purposes and subject to the terms, conditions and immunities described in section 37-2730A, Idaho Code. The database information must be made available only to the following:

(a) Authorized individuals employed by Idaho's boards or other states' licensing entities charged with the licensing and discipline of practitioners;

(b) Peace officers employed by federal, state and local law enforcement agencies engaged as a specified duty of their employment in enforcing law regulating controlled substances;

(c) Authorized individuals under the direction of the department of health and welfare for the purpose of monitoring and enforcing that department's responsibilities under the public health, medicare and medicaid laws;

(d) A practitioner, licensed in Idaho or another state, having authority to prescribe controlled substances, to the extent the information relates specifically to a current patient of the practitioner to whom the practitioner is prescribing or considering prescribing any controlled substance;

(e) A pharmacist, licensed in Idaho or another state, having authority to dispense controlled substances to the extent the information relates specifically to a current patient to whom that pharmacist is dispensing or considering dispensing any controlled substance, or providing pharmaceutical care as defined in the Idaho pharmacy act;

(f) An individual who is the recipient of a controlled substance prescription entered into the database or that individual's attorney, upon providing evidence satisfactory to the board that the individual requesting the information is in fact the person about whom the data entry was made or the attorney for that person;

(g) Upon the lawful order of a court of competent jurisdiction; and

(h) Prosecuting attorneys, deputy prosecuting attorneys and special prosecutors of a county or city and special assistant attorneys general from the office of the attorney general engaged in enforcing law regulating controlled substances.

(3) The board shall require prescribers, except veterinarians, to annually register with the board to obtain online access to the controlled substances prescriptions database.

(4) The board must maintain records on the information disclosed from the database, including:

(a) The identification of each individual who requests or receives information from the database and who that individual represents;

(b) The information provided to each such individual; and

(c) The date and time the information is requested or provided.

(45) The board shall promulgate rules to ensure that only authorized individuals have access to the database.

(56) Any person who knowingly misrepresents to the board that he is a person entitled under subsection (2) of this section to receive information from the controlled substances prescriptions database under the conditions therein provided, and who receives information from the controlled substances prescriptions database resulting from that misrepresentation, shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six (6) months, or by a fine not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal penalty is in addition to, and not in lieu of, any other civil or administrative penalty or sanction authorized by law.

(67) Any person in possession, whether lawfully or unlawfully, of information from the controlled substances prescriptions database which identifies an individual patient and who knowingly discloses such information to a person not authorized to receive or use such information under any state or federal law, rule or regulation; the lawful order of a court of competent jurisdiction; or written authorization of the individual patient shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six (6) months, or by a fine not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal penalty is in addition to, and not in lieu of, any other civil or administrative penalty or sanction authorized by law. The provisions of this subsection shall not apply to disclosure of individual patient information by the patient himself. The provisions of this subsection shall not apply to disclosure of information by a prosecuting attorney, deputy prosecuting attorney or special prosecutor of a county or city or by a special assistant attorney general from the office of the attorney general in the course of a criminal proceeding, whether preconviction or postconviction.

(78) Any person with access to the board's online prescription monitoring program pursuant to a board issued user account, login name and password who intentionally shares or recklessly fails to safeguard his user account, login name and password, resulting in another person not authorized to receive or use such information under the provisions of any state or federal law, rule or regulation obtaining information from the controlled substances prescriptions database, shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six (6) months or by a fine not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal penalty is in addition to, and not in lieu of, any other civil or administrative penalty or sanction authorized by law.

(89) The board may, at its discretion, block access to certain controlled substances prescriptions database data if the board has reason to believe that access to the data is or may be used illegally.

(910) All costs associated with recording and submitting data as required in this section are assumed by the dispensing practitioner recording and submitting the data.

Approved March 13, 2014

CHAPTER 80
(H.B. No. 352)

AN ACT

RELATING TO PUBLIC ASSISTANCE; AMENDING SECTION 56-237, IDAHO CODE, TO REVISE A PROVISION RELATING TO GROSS INCOME; AMENDING SECTION 56-238, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 56-239, IDAHO CODE, TO REVISE A PROVISION RELATING TO GROSS INCOME AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 56-240, IDAHO CODE, RELATING TO THE CHILDREN'S ACCESS CARD PROGRAM; AMENDING SECTION 56-241, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT SHALL LIMIT CERTAIN ASSISTANCE TO THOSE WHO DO NOT HAVE ACCESS TO COMPARABLE OR BETTER COVERAGE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 56-242, IDAHO CODE, TO REMOVE REFERENCE TO THE CHILDREN'S ACCESS CARD PROGRAM, TO PROVIDE THAT THE DEPARTMENT SHALL LIMIT CERTAIN ASSISTANCE TO THOSE WHO DO NOT HAVE ACCESS TO COMPARABLE OR BETTER COVERAGE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 56-237, Idaho Code, be, and the same is hereby amended to read as follows:

56-237. PURPOSE. The purpose and intent of this act is to promote the availability of health insurance to children and families and to adults who are employed by small businesses in Idaho and their dependent spouses whose families' modified adjusted gross incomes fall within one hundred eighty-five percent (185%) of the federal poverty guidelines.

SECTION 2. That Section 56-238, Idaho Code, be, and the same is hereby amended to read as follows:

56-238. DEFINITIONS. As used in sections 56-236 through 56-242, Idaho Code:

(1) "~~Children's access card program~~" means the program created in section 56-240, Idaho Code.

(2) "CHIP Plan A" means the existing Idaho children's health insurance program for children eligible under federal title XXI whose families' modified adjusted gross incomes do not exceed one hundred fifty percent (150%) of the federal poverty guidelines.

(32) "CHIP Plan B" means the program created in section 56-239, Idaho Code.

(43) "Department" means the state department of health and welfare.

(54) "Director" means the director of the state department of health and welfare.

(65) "Eligible adult" means a person:

(a) Over eighteen (18) years of age living in Idaho;

(b) Whose family's modified adjusted gross income is equal to or less than one hundred eighty-five percent (18500%) of the federal poverty guidelines; and

(c) Who is employed full time by a small employer, meaning an employer with two (2) to fifty (50) employees and as such term is defined in section 41-4703, Idaho Code, and who is eligible for health insurance coverage under a small employer health benefit plan regulated under chapter 47, title 41, Idaho Code, or the dependent spouse of such employee; and

(d) Who does not qualify for comparable or greater assistance through other federal or state health insurance or premium assistance programs.

(76) "Eligible child" means a child under nineteen (19) years of age living in Idaho whose family's modified adjusted gross income falls within federal poverty guidelines for Medicaid, CHIP Plan A or CHIP Plan B.

(87) "Health benefit plan" means any hospital or medical policy or certificate, any subscriber contract provided by a hospital or professional service corporation, or managed care organization subscriber contract. Health benefit plan does not include policies or certificates of insurance for specific disease, hospital confinement indemnity, accident-only, credit, dental, vision, medicare supplement, long-term care, or disability income insurance, student health benefits only coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, automobile medical payment insurance or nonrenewable short-term coverage issued for a period of twelve (12) months or less.

(8) "Modified adjusted gross income" means individual or family income as defined for state medicaid programs in the social security act and the Internal Revenue Code.

(9) "Small business health insurance pilot program" means the program created in section 56-241, Idaho Code.

SECTION 3. That Section 56-239, Idaho Code, be, and the same is hereby amended to read as follows:

56-239. CHIP PLAN B. (1) There is hereby created in the department a CHIP Plan B that shall be made available by the department to eligible children, as defined in section 56-238, Idaho Code, whose family's modified adjusted gross income is between one hundred fifty percent (150%) and one hundred eighty-five percent (185%) of the federal poverty guidelines. The director shall implement the program by adopting rules recommended by the board of the Idaho individual high risk reinsurance pool created in section 41-5502, Idaho Code, that authorize policies of health insurance for children enrolled in the CHIP Plan B.

(2) There is hereby created a CHIP Plan B advisory board which shall advise the Idaho individual high risk reinsurance pool board concerning issues related to the CHIP Plan B. The board shall consist of eight (8) members, four (4) members to be appointed by the director and four (4) members to be appointed by the governor. At least two (2) members of the board shall be parents of children who are eligible to participate in the CHIP Plan B.

SECTION 4. That Section 56-240, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 56-241, Idaho Code, be, and the same is hereby amended to read as follows:

56-241. SMALL BUSINESS HEALTH INSURANCE PILOT PROGRAM. (1) There is hereby created in the department a small business health insurance pilot program that shall be made available to for up to one thousand (1,000) eligible adults, as defined in section 56-238, Idaho Code, based on avail-

able funding. The director shall implement the program by adopting rules recommended by the board of the Idaho individual high risk reinsurance pool created in section 41-5502, Idaho Code, providing for the payment of the benefit authorized in subsection (2) of this section through the use of the Idaho health insurance access card.

(2) The small business health insurance pilot program shall, through the Idaho health insurance access card program, pay to the insurance company providing insurance coverage through policies regulated under chapter 47, title 41, Idaho Code, for an adult enrolled in the small employer health insurance pilot program, for each month the insurance coverage is in effect, a one hundred dollar (\$100) payment to be applied to the monthly insurance premium billed each month by the insurance company.

(3) Participation in the small business health insurance pilot program by any employer shall be optional. Nothing in sections 56-236 through 56-242, Idaho Code, shall be construed to mandate or require that an employer participate in the pilot program. Small employers who choose to participate in the small business health insurance pilot program shall meet insurance carriers' contribution and participation guidelines.

(4) There is hereby created a small business health insurance advisory board which shall advise the Idaho individual high risk reinsurance pool board concerning issues related to the small business health insurance pilot program. The board shall consist of eight (8) members, four (4) members to be appointed by the director and four (4) members to be appointed by the governor. At least four (4) members of the board shall be representatives of small businesses, meaning those with two (2) to fifty (50) employees, that offer employee health benefit plans regulated under chapter 47, title 41, Idaho Code.

(5) The department shall limit assistance under the small business health insurance pilot program to those who do not have access to comparable or better coverage under other federal or state programs.

SECTION 6. That Section 56-242, Idaho Code, be, and the same is hereby amended to read as follows:

56-242. IDAHO HEALTH INSURANCE ACCESS CARD. (1) The director shall develop an Idaho health insurance access card program in the department to implement ~~the children's access card program and~~ the small business health insurance pilot program.

(2) (a) There is hereby created and established in the state treasury a fund to be known as the "Idaho health insurance access card fund." Moneys in the fund shall be maintained in ~~three~~ two (32) subaccounts, identified respectively as the "CHIP Plan B subaccount," ~~the "children's access card program subaccount"~~ and the "small business health insurance pilot program subaccount." Appropriations, matching federal funds, grants, donations and moneys from other sources shall be paid into the fund. The department shall administer the fund. Any interest earned on the investment of idle moneys in the fund shall be returned to and deposited in the fund.

(b) Moneys in the CHIP Plan B subaccount, ~~the children's access card program subaccount~~ and the small business health insurance pilot program subaccount shall be expended pursuant to appropriation for the payment of benefits and capped administrative costs of the department.

(3) The director shall ~~apply for~~ manage waivers of federal title XXI and title XIX to subsidize health care coverage under the CHIP Plan B, ~~the children's access card program and~~ the small business health insurance pilot program. Federal matching funds received by the department to provide coverage under CHIP Plan B, ~~the children's access card program and~~ the small business health insurance pilot program shall be deposited in the appropriate subaccount.

(4) The director is authorized to promulgate rules recommended by the board of the Idaho individual high risk reinsurance pool to implement the CHIP Plan B, ~~the children's access card program~~ and the small business health insurance pilot program.

(5) Insurers offering health benefit plans regulated under chapter 47, title 41, Idaho Code, shall accept payment for such plans under the small business health insurance pilot program pursuant to rules promulgated by the department. ~~Insurers offering health benefit plans, as defined in section 56-238, Idaho Code, shall accept payment for such plans under the children's access card program.~~

(6) ~~The CHIP Plan B and the children's access card program shall be implemented by July 1, 2004. Implementation of the small business health insurance pilot program shall begin on July 1, 2005~~ The department shall limit assistance under the Idaho health insurance access card program to those who do not have access to comparable or better coverage under other federal or state programs.

Approved March 13, 2014

CHAPTER 81
(H.B. No. 399)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-404, IDAHO CODE, TO PROVIDE THAT A LICENSE MAY BE ISSUED TO CERTAIN QUALIFIED PERSONS WHO ARE NINE YEARS OF AGE TO ALLOW THE APPLICATION FOR A CONTROLLED HUNT BIG GAME TAG AND TO REMOVE A PROHIBITION RELATING TO THE HUNTING OF BIG GAME BY CERTAIN PERSONS WITH A JUNIOR HUNTING LICENSE WHO ARE TEN OR ELEVEN YEARS OF AGE; AND AMENDING SECTION 36-407, IDAHO CODE, TO PROVIDE THAT A LICENSE MAY BE ISSUED TO CERTAIN QUALIFIED PERSONS WHO ARE NINE YEARS OF AGE TO ALLOW THE APPLICATION FOR A CONTROLLED HUNT BIG GAME TAG, TO REMOVE A PROHIBITION RELATING TO THE HUNTING OF BIG GAME ANIMALS BY PERSONS WITH NONRESIDENT JUNIOR MENTORED HUNTING LICENSES WHO ARE TEN OR ELEVEN YEARS OF AGE, TO PROVIDE THAT PERSONS WITH CERTAIN LICENSES SHALL BE ENTITLED TO FISH IN THE WATERS OF THE STATE FOR A PERIOD OF THREE CONSECUTIVE DAYS IN EACH LICENSE YEAR FOR ANY FISH DURING AN OPEN SEASON FOR THOSE FISH, TO PROVIDE EXCEPTIONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 36-404, Idaho Code, be, and the same is hereby amended to read as follows:

36-404. CLASSES OF LICENSES. The licenses required by the provisions of this title shall be of eight (8) classes. Classes one (1) through five (5) and eight (8) in this section may be purchased or obtained only by persons who meet residency requirements under the provisions of section 36-202(s) and (t), Idaho Code, or who are valid holders of a lifetime license certificate.

Class 1: Adult Combination -- Hunting -- Fishing -- Trapping Licenses. Licenses to be issued only to persons who are residents of the state of Idaho.

Class 2: Junior Hunting -- Trapping.

(a) Junior hunting license. Licenses to be issued only to persons who are residents of the state of Idaho and are between ten (10) and seventeen (17) years of age, inclusive. Provided, that a license may be issued to qualified persons who are nine (9) years of age to allow the application for a controlled hunt big game tag or turkey permit; however, said persons shall not hunt until they are ten (10) years of age. Persons with a junior hunting license who are ten (10) or eleven (11) years of age ~~shall not hunt big game~~

and said persons shall be accompanied in the field by an adult licensed to hunt in the state of Idaho.

(b) Junior trapping licenses. Licenses to be issued only to persons who are residents of the state of Idaho and are seventeen (17) years of age or younger.

Class 3: Junior Combination -- Fishing Licenses. Licenses to be issued only to persons who are residents of the state of Idaho between fourteen (14) and seventeen (17) years of age, inclusive.

Class 4: Senior Resident Combination License. Licenses to be issued only to persons over sixty-five (65) years of age who have been bona fide residents of the state of Idaho for a continuous period of not less than five (5) years last preceding application.

Class 5: Resident Lifetime Combination -- Hunting -- Fishing License. Licenses to be issued only to persons who are valid holders of a lifetime license certificate.

Class 6: Nonresident Combination -- Hunting -- Fishing -- Trapping -- Junior Mentored Hunting -- Disabled Hunting License for American Veteran Participating in a Hunt in Association with a Qualified Organization -- Licenses. Licenses required of persons who are nonresidents.

Class 7: Duplicate License -- Tag. A license or tag to be issued as a replacement for an original license or tag lost or mutilated. Said license or tag shall be issued in the same class and type as the original and upon issuance of such duplicate license or tag the original license or tag shall become null and void.

Class 8: Resident Hunting and Fishing License with Tags, Permits and Stamps. Licenses to be issued only to persons who meet residency requirements under the provisions of section 36-202(s) and (t), Idaho Code.

SECTION 2. That Section 36-407, Idaho Code, be, and the same is hereby amended to read as follows:

36-407. NONRESIDENT COMBINATION, FISHING, HUNTING, AND TRAPPING LICENSES -- FEES -- RIGHTS UNDER. Licenses of the sixth class shall be issued to nonresidents in the several kinds and for fees as follows:

(a) Nonresident Hunting With Three Day Fishing License. A license issued only to a person twelve (12) years of age or older entitling said person to hunt game animals, game birds and unprotected and predatory wildlife and to purchase game tags as provided in section 36-409(b), Idaho Code, and to fish in the waters of the state for a period of three (3) consecutive days for any fish during an open season for those fish, excluding steelhead trout and anadromous salmon. Provided, that a license may be issued to qualified persons who are eleven (11) years of age to allow the application for a controlled hunt tag; however, said persons shall not hunt until they are twelve (12) years of age. A license of this kind may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(b) Nonresident Season Fishing License. A license entitling a person to fish in the public waters of the state. A license of this kind may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(c) Nonresident Trapping License. A license entitling a person to trap wolves, ~~fur-bearing~~ furbearing, unprotected and predatory wildlife. A license of this kind may be had upon payment of a fee as specified in section 36-416, Idaho Code, providing the state of residence of said person grants similar trapping license privileges to residents of Idaho.

(d) Nonresident Nongame License. A nonresident nongame license to hunt is a license entitling a person to hunt unprotected birds and animals and predatory wildlife of this state. A license of this kind may be had by a nonresident person who is twelve (12) years of age or older upon payment of a fee as specified in section 36-416, Idaho Code.

(e) Nonresident Small Game Hunting License. A license issued only to a person twelve (12) years of age or older, entitling the person to hunt upland game birds (to include turkeys), migratory game birds, upland game animals, huntable ~~fur-bearing~~ furbearing animals, and unprotected and predatory wildlife of this state. A person holding this license shall purchase the appropriate required tags and permits, and may not hunt pheasants in an area during the first five (5) days of the pheasant season in that area. A license of this type may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(f) Falconry Meet Permit. The director may issue a special permit for a regulated meet scheduled for a specific number of days upon payment of a fee as specified in section 36-416, Idaho Code. Only trained raptors may be used under the special permit issued under the provisions of this subsection.

(g) Daily Fishing License -- Resident May Purchase. A license entitling a person to fish in the waters of the state on a day-to-day basis. A license of this kind may be had by a resident or nonresident person (the provisions of section 36-405, Idaho Code, notwithstanding), upon payment of a fee as specified in section 36-416, Idaho Code, for the first effective day and a fee as specified in section 36-416, Idaho Code, for each consecutive day thereafter.

(h) Nonresident Three Day Fishing License with Steelhead or Salmon Permit. A license entitling a nonresident to fish in the waters of the state for a period of three (3) consecutive days for any fish, including steelhead trout or anadromous salmon during an open season for those fish may be had upon payment of a fee as specified in section 36-416, Idaho Code. The three (3) day license holder may fish for any species of fish, steelhead trout and anadromous salmon subject to the limitations prescribed in rules promulgated by the commission. A nonresident may purchase as many of the licenses provided in this subsection as he desires provided that the nonresident is otherwise eligible to do so.

(i) Nonresident Junior Fishing License. A license entitling a nonresident who is less than eighteen (18) years of age to fish in the waters of this state may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(j) Nonresident Combination Licenses. A license entitling the person to hunt and fish for game animals, game birds, fish and unprotected and predatory wildlife of the state and to purchase game tags as provided in section 36-409(b), Idaho Code, may be had by a person twelve (12) years of age or older upon payment of a fee as specified in section 36-416, Idaho Code. A license may be issued to a qualified person who is eleven (11) years of age to allow the application for a controlled hunt tag; however, the person shall not hunt until he is twelve (12) years of age.

(k) Nonresident Junior Mentored Hunting License. A license entitling a nonresident between ten (10) and seventeen (17) years of age, inclusive, to hunt big game animals, upland game birds (including turkeys), migratory game birds, upland game animals, huntable furbearing animals and unprotected and predatory wildlife of this state only when accompanied in the field by the holder of an adult Idaho hunting license. A person holding this license shall purchase the appropriate required tags as provided in section 36-409(b), Idaho Code, and permits. Provided, that a license may be issued to qualified persons who are nine (9) years of age to allow the application for a controlled hunt big game tag or turkey permit; however, said persons shall not hunt until they are ten (10) years of age. ~~Persons with a nonresident junior mentored hunting license who are ten (10) or eleven (11) years of age shall not hunt big game animals.~~ A license of this kind may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(l) Nonresident Disabled American Veteran. A license entitling a person to participate in a hunt in association with a qualified organization.

"Qualified organization," as used in association with these licenses, shall be as defined in section 36-408(7), Idaho Code.

(em) Nonresident Hunting License -- Three Year. A license issued only to a person twelve (12) years of age or older entitling said person to hunt game birds, game animals, unprotected and predatory wildlife and to purchase game tags as provided in section 36-409(b), Idaho Code, and to fish in the waters of the state for a period of three (3) consecutive days in each license year for any fish during an open season for those fish, excluding steelhead trout and anadromous salmon. Provided, that a license may be issued to qualified persons who are eleven (11) years of age to allow the application for a controlled hunt tag; however, said persons shall not hunt until they are twelve (12) years of age. A license of this kind may be had upon payment of three (3) times the fee as specified in section 36-416, Idaho Code. The expiration date for said license shall be December 31 of the third year following the date of issuance.

(pn) Nonresident Season Fishing License -- Three Year. A license entitling a person to fish in the public waters of the state. A license of this kind may be had upon payment of three (3) times the fee as specified in section 36-416, Idaho Code, for a fishing license. The expiration date for said license shall be December 31 of the third year following the date of issuance.

(go) Nonresident Combination Licenses -- Three Year. A license entitling the person to hunt and fish for game animals, game birds, fish and unprotected and predatory wildlife of the state may be had by a person twelve (12) years of age or older upon payment of three (3) times the fee as specified in section 36-416, Idaho Code, for a combined hunting and fishing license. A license may be issued to a qualified person who is eleven (11) years of age to allow the application for a controlled hunt tag; however, the person shall not hunt until he is twelve (12) years of age. The expiration date for said license shall be December 31 of the third year following the date of issuance.

(xp) Nonresident Junior Mentored Hunting License -- Three Year. A license entitling a nonresident between ten (10) and seventeen (17) years of age, inclusive, to hunt game animals, upland game birds (including turkeys), migratory game birds, and unprotected and predatory wildlife of this state only when accompanied in the field by the holder of an adult Idaho hunting license. A person holding this license shall purchase the appropriate required tags as provided in section 36-409(b), Idaho Code, and permits. Provided, that a license may be issued to qualified persons who are nine (9) years of age to allow the application for a controlled hunt turkey permit; however, said persons shall not hunt until they are ten (10) years of age. A license of this kind may be had upon payment of three (3) times the fee as specified in section 36-416, Idaho Code, for a junior mentored hunting license. The expiration date for said license shall be December 31 of the third year following the date of issuance.

Approved March 13, 2014

CHAPTER 82
(H.B. No. 403)

AN ACT

RELATING TO LICENSE PLATES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE A CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-420M, IDAHO CODE, TO PROVIDE FOR IDAHO 4-H PLATES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-402. ANNUAL REGISTRATION. (1) The annual fee for operating each pickup truck, each neighborhood electric vehicle and each other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds and that complies with the federal motor vehicle safety standards as defined in section 49-107, Idaho Code, shall be:

Vehicles one (1) and two (2) years old	\$48.00
Vehicles three (3) and four (4) years old	\$36.00
Vehicles five (5) and six (6) years old	\$36.00
Vehicles seven (7) and eight (8) years old	\$24.00
Vehicles over eight (8) years old	\$24.00

There shall be twelve (12) registration periods, starting in January for holders of validation registration stickers numbered 1, and proceeding consecutively through December for holders of validation registration stickers numbered 12, each of which shall start on the first day of a calendar month and end on the last day of the twelfth month from the first day of the beginning month. Registration periods shall expire midnight on the last day of the registration period in the year designated by the validation registration sticker. The numeral digit on the validation registration stickers shall, as does the registration card, fix the registration period under the staggered registration system for the purpose of reregistration and notice of expiration.

A vehicle that has once been registered for any of the above designated periods shall, upon reregistration, be registered for the period bearing the same number, and the registration card shall show and be the exclusive proof of the expiration date of registration and licensing. Vehicles may be initially registered for less than a twelve (12) month period, or for more than a twelve (12) month period, and the fee prorated on a monthly basis if the fractional registration tends to fulfill the purpose of the monthly series registration system.

(2) For all school buses operated either by a nonprofit, nonpublic school or operated pursuant to a service contract with a school district for transporting children to or from school or in connection with school approved activities, the annual fee shall be twenty-four dollars (\$24.00) and shall be subject to staggered registration for the purpose of reregistration and notice of expiration.

(3) For all motorcycles and motor-driven cycles which comply with the federal motor vehicle safety standards, operated upon the public highways, the annual fee shall be nine dollars (\$9.00) and shall be subject to staggered registration for the purpose of reregistration and notice of expiration.

(4) For operation of an all-terrain vehicle, utility type vehicle or motorbike, excluding a motorbike with an engine displacement of fifty (50) cubic centimeters or less, on city, county or highway district roads or highways open to such use, a restricted vehicle license plate fee pursuant to section 49-450, Idaho Code, shall be paid. In addition, the registration fee specified in section 67-7122, Idaho Code, shall be paid as provided in section 67-7122, Idaho Code. The registration and restricted vehicle license plate exemption provided in section 49-426(2), Idaho Code, applies to all-terrain vehicles, utility type vehicles, motorbikes and motorcycles used for the purposes described in subsection (2) of section 49-426, Idaho Code. Nonresidents shall be allowed to purchase a restricted vehicle license plate and sticker for an all-terrain vehicle, utility type vehicle or motorbike.

(5) For all motor homes the fee shall be as specified in subsection (1) of this section and shall be in addition to the fees provided for in section 49-445, Idaho Code.

(6) Registration fees shall not be subject to refund.

(7) A person who applies for motor vehicle registration or motor vehicle registration renewal may designate a voluntary contribution of two dollars (\$2.00) for the purpose of promoting and supporting organ donation. Such a contribution shall be treated as a voluntary contribution to the organ donation contribution fund created in section 49-2447, Idaho Code, and not as a motor vehicle registration fee. Each voluntary contribution of two dollars (\$2.00), less actual administrative costs associated with collecting and transferring such contributions, shall be deposited into the organ donation contribution fund.

(8) A financial institution or repossession service contracted to a financial institution repossessing vehicles under the terms of a security agreement shall move the vehicle from the place of repossession to the financial institution's place of business on a repossession plate. The repossession plate shall also be used for demonstrating the vehicle to a prospective purchaser for a period not to exceed ninety-six (96) hours. The registration fees for repossession plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho Code, shall be in addition to the registration fee. The repossession plate shall be subject to staggered registration for the purpose of reregistration and notice of expiration.

(9) A wrecker or towing business engaged in the process of towing motorized vehicles, which have been wrecked, abandoned, salvaged or may be disabled, may apply for a wrecker plate to be displayed on those vehicles being towed, provided the power unit is properly registered under this chapter. The registration fees for wrecker plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho Code, shall be in addition to the registration fee and shall be subject to staggered registration for the purpose of reregistration and notice of expiration.

(10) In addition to the annual registration fee in this section, there shall be an initial program fee of twenty-five dollars (\$25.00) and an annual program fee of fifteen dollars (\$15.00) for all special license plate programs for those license plates issued pursuant to sections 49-404A, 49-407, 49-408, 49-409, 49-414, 49-416, 49-418 and 49-418D, Idaho Code. For special plates issued pursuant to sections 49-406 and 49-406A, Idaho Code, there shall be an initial program fee of twenty-five dollars (\$25.00) but there shall be no annual renewal fee. For special plates issued pursuant to sections 49-415C, 49-415D, 49-415E, 49-416A, 49-416B, 49-416C, 49-416D, 49-416E, 49-417, 49-417A, 49-417B, 49-417C, 49-417D, 49-417E, 49-418A, 49-418B, 49-418C, 49-418E, 49-419, 49-419A, 49-419B, 49-419C, 49-419D, 49-419E, 49-420, 49-420A, 49-420B, 49-420C, 49-420D, 49-420E, 49-420G, 49-420H, 49-420I, 49-420J, 49-420K, and 49-420L and 49-420M, Idaho Code, and any new special plate program effective on and after January 1, 2013, pursuant to section 49-402D, Idaho Code, there shall be an initial program fee of thirty-five dollars (\$35.00) and an annual program fee of twenty-five dollars (\$25.00). The fees contained in this subsection shall be applicable to all new special plate programs and shall be subject to staggered registration for the purpose of reregistration and notice of expiration. The initial program fee and the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law.

(11) Any vehicle that does not meet federal motor vehicle safety standards shall not be registered and shall not be permitted to operate on public highways of the state, as defined in section 40-117, Idaho Code, unless otherwise specifically authorized.

(12) In addition to annual registration fees as provided in this section, registrants may pay a fee to purchase an Idaho state parks passport authorizing resident motor vehicle entry into all Idaho state parks. Reg-

istrants may pay the fee for a one (1) year or two (2) year period of time. The fee shall be ten dollars (\$10.00) for one (1) year and twenty dollars (\$20.00) for two (2) years. All fees collected pursuant to this subsection shall be deposited into the park and recreation fund and shall be subject to appropriation. Fees collected pursuant to this subsection shall not be considered a motor vehicle registration fee as provided in section 17, article VII, of the constitution of the state of Idaho.

SECTION 2. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-420M, Idaho Code, and to read as follows:

49-420M. IDAHO 4-H PLATES. (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, may apply for and upon department approval receive special Idaho 4-H license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho 4-H plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates and twenty-five dollars (\$25.00) upon each succeeding annual registration. Thirteen dollars (\$13.00) of the initial fee and thirteen dollars (\$13.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-two dollars (\$22.00) of each initial fee and twelve dollars (\$12.00) of each renewal fee shall be transferred by the state treasurer to the University of Idaho foundation, friends of 4-H division, and shall be used by the division for 4-H youth development programs across Idaho for the purpose of funding educational 4-H events, securing supplemental resource materials, providing scholarship and leadership training opportunities and integrating additional STEM-based programming into curriculum offerings to better prepare Idaho youth for future careers.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may display the plates on another vehicle only upon receipt of the new registration from the department.

(4) The license plate design shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the University of Idaho foundation, friends of 4-H division, and shall be approved by the department and shall use a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the University of Idaho foundation, friends of 4-H division.

(5) Sample Idaho 4-H license plates may be purchased for a fee of thirty dollars (\$30.00), thirteen dollars (\$13.00) of which shall be deposited in the state highway account and seventeen dollars (\$17.00) of which shall be transferred to the University of Idaho foundation, friends of 4-H division.

SECTION 3. This act shall be in full force and effect on and after January 1, 2015.

CHAPTER 83
(H.B. No. 504)

AN ACT

RELATING TO EDUCATION; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 33-1002, IDAHO CODE, TO PROVIDE FOR A SUBTRACTION FROM TOTAL STATE FUNDS FOR LEADERSHIP PREMIUMS; AMENDING SECTION 33-1004C, IDAHO CODE, TO PROVIDE THAT THE LEGISLATURE SHALL ANNUALLY REVIEW BASE SALARY FIGURES, MINIMUM INSTRUCTIONAL SALARY FIGURES AND LEADERSHIP PREMIUM FIGURES; AMENDING SECTION 33-1004F, IDAHO CODE, TO REVISE PROVISIONS RELATING TO OBLIGATIONS TO RETIREMENT AND SOCIAL SECURITY BENEFITS; AND AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1004J, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO LEADERSHIP PREMIUMS FOR INSTRUCTIONAL STAFF EMPLOYEES, TO PROVIDE THAT LEADERSHIP PREMIUMS MAY BE MADE FOR CERTAIN REASONS, TO PROVIDE FOR MULTIPLE PREMIUMS, TO PROVIDE FOR REPORTS, TO DEFINE TERMS AND TO PROVIDE FOR RULES.

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

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to support and implement the recommendation of the 2013 Task Force for Improving Education regarding leadership awards and the career ladder compensation model (Task Force Summary Recommendation 12 and Fiscal Stability/Effective Teachers and Leaders Subcommittee Recommendation 1.2).

SECTION 2. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002. EDUCATIONAL SUPPORT PROGRAM. The educational support program is calculated as follows:

(1) State Educational Support Funds. Add the state appropriation, including the moneys available in the public school income fund, together with all miscellaneous revenues to determine the total state funds.

(2) From the total state funds subtract the following amounts needed for state support of special programs provided by a school district:

(a) Pupil tuition-equivalency allowances as provided in section 33-1002B, Idaho Code;

(b) Transportation support program as provided in section 33-1006, Idaho Code;

(c) Feasibility studies allowance as provided in section 33-1007A, Idaho Code;

(d) The approved costs for border district allowance, provided in section 33-1403, Idaho Code, as determined by the state superintendent of public instruction;

(e) The approved costs for exceptional child approved contract allowance, provided in subsection 2. of section 33-2004, Idaho Code, as determined by the state superintendent of public instruction;

(f) Certain expectant and delivered mothers allowance as provided in section 33-2006, Idaho Code;

(g) Salary-based apportionment calculated as provided in sections 33-1004 through 33-1004F, Idaho Code;

(h) Unemployment insurance benefit payments according to the provisions of section 72-1349A, Idaho Code;

(i) For expenditure as provided by the public school technology program;

(j) For employee severance payments as provided in section 33-521, Idaho Code;

(k) For distributions to the Idaho digital learning academy as provided in section 33-1020, Idaho Code;

(l) For charter school facilities funds and reimbursements paid pursuant to section 33-5208(5), Idaho Code;

(~~lm~~) For an online course portal as provided for in section 33-1024, Idaho Code;

(~~mn~~) For advanced opportunities as provided for in section 33-1626, Idaho Code;

(~~lo~~) For the "8 in 6 Program" as provided for in section 33-1628, Idaho Code;

(~~mp~~) For additional math and science courses for high school students as provided in section 33-1021, Idaho Code;

(q) For leadership premiums as provided in section 33-1004J, Idaho Code;

(~~m~~)(~~nr~~) For the support of provisions that provide a safe environment conducive to student learning and maintain classroom discipline, an allocation of \$300 per support unit; and

(~~ls~~) Any additional amounts as required by statute to effect administrative adjustments or as specifically required by the provisions of any bill of appropriation;

to secure the total educational support distribution funds.

(3) Average Daily Attendance. The total state average daily attendance shall be the sum of the average daily attendance of all of the school districts of the state. The state board of education shall establish rules setting forth the procedure to determine average daily attendance and the time for, and method of, submission of such report. Average daily attendance calculation shall be carried out to the nearest hundredth. Computation of average daily attendance shall also be governed by the provisions of section 33-1003A, Idaho Code.

(4) Support Units. The total state support units shall be determined by using the tables set out hereafter called computation of kindergarten support units, computation of elementary support units, computation of secondary support units, computation of exceptional education support units, and computation of alternative school secondary support units. The sum of all of the total support units of all school districts of the state shall be the total state support units.

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

Average Daily

Attendance	Attendance Divisor	Units Allowed
41 or more....	40.....	1 or more as computed
31 - 40.99 ADA....	-.....	1
26 - 30.99 ADA....	-.....	.85
21 - 25.99 ADA....	-.....	.75
16 - 20.99 ADA....	-.....	.6
8 - 15.99 ADA....	-.....	.5
1 - 7.99 ADA....	-.....	count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
300 or more ADA.....	..23...grades 4,5 & 6....	.. 15
	..22...grades 1,2 & 3....1994-95	
	..21...grades 1,2 & 3....1995-96	
	..20...grades 1,2 & 3....1996-97 and each year thereafter.	
160 to 299.99 ADA...	20	8.4
110 to 159.99 ADA...	19	6.8
71.1 to 109.99 ADA...	16	4.7
51.7 to 71.0 ADA...	15	4.0
33.6 to 51.6 ADA...	13	2.8
16.6 to 33.5 ADA...	12	1.4
1.0 to 16.5 ADA...	n/a	1.0

COMPUTATION OF SECONDARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
750 or more....	18.5	47
400 - 749.99 ADA....	16	28
300 - 399.99 ADA....	14.5	22
200 - 299.99 ADA....	13.5	17
100 - 199.99 ADA....	12	9
99.99 or fewer	Units allowed as follows:	
Grades 7-12	.....	8
Grades 9-12	.....	6
Grades 7- 9	.....	1 per 14 ADA
Grades 7- 8	.....	1 per 16 ADA

COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
14 or more....	14.5	1 or more as computed
12 - 13.99....	-	1
8 - 11.99....	- .....	.75
4 - 7.99....	- .....	.5
1 - 3.99....	- .....	.25

COMPUTATION OF ALTERNATIVE SCHOOL SECONDARY SUPPORT UNITS

Pupils in Attendance	Attendance Divisor	Minimum Units Allowed
12 or more.....	12	1 or more as computed

In applying these tables to any given separate attendance unit, no school district shall receive less total money than it would receive if it had a lesser average daily attendance in such separate attendance unit. In applying the kindergarten table to a kindergarten program of less days than a full school year, the support unit allowance shall be in ratio to the number of days of a full school year. The tables for exceptional education and alternative school secondary support units shall be applicable only for programs approved by the state department of education following rules established by the state board of education. Moneys generated from computation of support units for alternative schools shall be utilized for alternative school programs. School district administrative and facility costs may be included as part of the alternative school expenditures.

(5) State Distribution Factor per Support Unit. Divide educational support program distribution funds, after subtracting the amounts necessary to pay the obligations specified in subsection (2) of this section, by the total state support units to secure the state distribution factor per support unit.

(6) District Support Units. The number of support units for each school district in the state shall be determined as follows:

(a) (i) Divide the actual average daily attendance, excluding students approved for inclusion in the exceptional child educational program, for the administrative schools and each of the separate schools and attendance units by the appropriate divisor from the tables of support units in this section, then add the quotients to obtain the district's support units allowance for regular students, kindergarten through grade 12 including alternative school secondary students. Calculations in application of this subsection shall be carried out to the nearest hundredth.

(ii) Divide the combined totals of the average daily attendance of all preschool, kindergarten, elementary, secondary, juvenile detention center students and students with disabilities approved for inclusion in the exceptional child program of the district by the appropriate divisor from the table for computation of exceptional education support units to obtain the number of support units allowed for the district's approved exceptional child program. Calculations for this subsection shall be carried out to the nearest hundredth when more than one (1) unit is allowed.

(iii) The total number of support units of the district shall be the sum of the total support units for regular students, subsection (6) (a) (i) of this section, and the support units allowance for the approved exceptional child program, subsection (6) (a) (ii) of this section.

(b) Total District Allowance Educational Program. Multiply the district's total number of support units, carried out to the nearest hundredth, by the state distribution factor per support unit and to this product add the approved amount of programs of the district provided in subsection (2) of this section to secure the district's total allowance for the educational support program.

(c) District Share. The district's share of state apportionment is the amount of the total district allowance, subsection (6) (b) of this section.

(d) Adjustment of District Share. The contract salary of every noncertificated teacher shall be subtracted from the district's share as calculated from the provisions of subsection (6) (c) of this section.

(7) Property Tax Computation Ratio. In order to receive state funds pursuant to this section a charter district shall utilize a school maintenance and operation property tax computation ratio for the purpose of calculating its maintenance and operation levy, that is no greater than that which it utilized in tax year 1994, less four-tenths of one percent (.4%). As

used herein, the term "property tax computation ratio" shall mean a ratio determined by dividing the district's certified property tax maintenance and operation budget by the actual or adjusted market value for assessment purposes as such values existed on December 31, 1993. Such maintenance and operation levy shall be based on the property tax computation ratio multiplied by the actual or adjusted market value for assessment purposes as such values existed on December 31 of the prior calendar year.

SECTION 3. That Section 33-1004C, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004C. BASE AND MINIMUM SALARY SALARIES -- LEADERSHIP PREMIUMS -- EDUCATION AND EXPERIENCE INDEX. The base salary following shall be reviewed annually by the legislature:

(a) The base salary figures pursuant to subsections 1., 2. and 3. of section 33-1004E, Idaho Code;

(b) The minimum instructional salary figure pursuant to subsection 1. of section 33-1004E, Idaho Code; and

(c) The leadership premium figures pursuant to subsections (1) and (2) of section 33-1004J, Idaho Code.

(2) The statewide education and experience index (or state average index, or state index) is the average of all qualifying employees, instructional and administrative respectively. It is determined by totaling the index value for all qualifying employees and dividing by the number of employees.

SECTION 4. That Section 33-1004F, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004F. OBLIGATIONS TO RETIREMENT AND SOCIAL SECURITY BENEFITS. 1. Based upon the actual salary-based apportionment, as determined in section 33-1004E, Idaho Code, and the leadership premiums distributed pursuant to section 33-1004J, Idaho Code, there shall be allocated that amount required to meet the employer's obligations to the public employee retirement system and to social security.

~~2. If a district's qualifying salaries total more than the district's salary-based apportionment, there shall be allocated an additional amount to meet the employer's obligation to the public employee retirement system and to social security equal to two-thirds (2/3) of the additional obligation for the school year 1994-95. If a district's qualifying salaries total more than the district's salary-based apportionment, there shall be allocated an additional amount to meet the employer's obligation to the public employee retirement system and to social security equal to one-third (1/3) of the additional obligation for the school year 1995-96. Thereafter, the benefit allocation shall be based solely upon the provisions of subsection 1. of this section.~~

SECTION 5. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1004J, Idaho Code, and to read as follows:

33-1004J. LEADERSHIP PREMIUMS. (1) Of the moneys available to the educational support program, eight hundred fifty dollars (\$850) shall be distributed per full-time equivalent instructional staff position employed by each school district. Such moneys shall be paid to instructional staff employees for leadership activities as provided in paragraphs (a) through (h) of this subsection. Such premiums shall be valid only for the fiscal year for which the premiums are made and shall be made for one (1) or more of the

following reasons as identified as leadership priorities by the board of trustees:

- (a) Providing instruction in a subject in which the employee holds a content area master's degree;
- (b) Teaching a course in which students earn both high school and college credit;
- (c) Teaching a course to middle school students in which the students earn both middle school and high school credit;
- (d) Holding and providing service in multiple nonadministrative certificate or subject endorsement areas;
- (e) Serving in an instructional position designated as hard to fill by the board of trustees;
- (f) Providing mentoring, peer assistance or professional development pursuant to section 33-512(17), Idaho Code;
- (g) Having received professional development in career and academic counseling, and then providing career or academic counseling for students, with such services incorporated within or provided in addition to the teacher's regular classroom instructional duties;
- (h) Other leadership duties designated by the board of trustees, exclusive of duties related to student activities or athletics. Such duties shall require that the employee work additional time as a condition of the receipt of a leadership premium.

(2) Local school district boards of trustees may provide leadership premiums to instructional staff employees consistent with the provisions of this section. The decision as to whom and how many receive leadership premiums, and in what amounts, shall not be subject to collective bargaining, any other provision of law notwithstanding. A board may provide multiple leadership premiums to an instructional staff employee. However, no such employee shall receive cumulative leadership premiums in excess of twenty-five percent (25%) of the base salary amount designated in section 33-1004E, Idaho Code, nor less than eight hundred fifty dollars (\$850).

(3) The state department of education may require reports of information as needed to implement the provisions of this section. Also, the department shall report, on or before January 15, 2016, and on or before January 15 of each subsequent year, to the governor, the senate education committee and the house of representatives education committee relevant information regarding leadership premiums, including the following:

- (a) The number of leadership premiums issued, by district;
- (b) The average dollar amount of leadership premiums issued, by district;
- (c) The highest and lowest leadership premium issued, by district; and
- (d) The percent of instructional staff positions receiving leadership premiums and the cumulative amount of such premiums, by district.

(4) For the purposes of this section, the term "school district" also means "public charter school," and the term "board of trustees" also means "board of directors."

(5) The state board of education is hereby authorized to promulgate rules to implement the provisions of this section.

Approved March 13, 2014

CHAPTER 84
(H.B. No. 550)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE IDAHO EDUCATION NETWORK FOR FISCAL YEAR 2014; PROVIDING LEGISLATIVE INTENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 2, Chapter 295, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated \$6,600,000 from the General Fund to the Department of Administration for the Information Technology Program for the Idaho Education Network, to be expended for operating expenditures, for the period July 1, 2013, through June 30, 2014.

SECTION 2. LEGISLATIVE INTENT. It is the intent of the Legislature that the Idaho Department of Administration (the "Department") shall use the fiscal year 2014 supplemental appropriation in the amount of \$6,600,000 to pay the outstanding funds due in fiscal year 2014 to Education Networks of America, Inc./ENA Services, LLC ("ENA") from Universal Service Administrative Company ("USAC") for services rendered to the Department of Administration, but not paid for by USAC pursuant to RFP02160 and any purchase orders and amendments (the "IEN Contract").

Prior to disbursement of the funds from the General Fund to the Department, the Department and ENA shall amend the IEN Contract with the following provisions, at a minimum:

- (1) Disbursement of funds under this appropriation shall not constitute acknowledgment of any liability due and owing by the State of Idaho to ENA.
- (2) ENA shall immediately return to the Department any funds paid to ENA under this appropriation, if and when USAC pays ENA for any of the services ENA rendered to the Department pursuant to the IEN Contract.
- (3) Nothing in this amendment shall displace ENA's responsibility under Paragraph 9.13 or any other provision of the IEN Contract to directly bill and secure funding from USAC.

Upon completion of the contract amendment required under this section, and also upon the receipt of any funds paid back to the Department by ENA pursuant to (2) of this section, the Department shall immediately notify members of the IEN Program Resource Advisory Council (IPRAC). If ENA returns any appropriated funds to the Department pursuant to (2) of this section, the Department shall immediately transfer such funds to the General Fund. If the Department does not use the entire appropriation for the purposes stated herein in fiscal year 2014, it shall return the unused funds to the General Fund on or before June 30, 2015.

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

Approved March 13, 2014

CHAPTER 85
(S.B. No. 1301)

AN ACT

RELATING TO INCOME TAXATION; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3022S, IDAHO CODE, TO PROVIDE FOR RELIEF FROM JOINT AND SEVERAL LIABILITY ON A JOINT RETURN IF CERTAIN CONDITIONS OCCUR, TO PROVIDE PROCEDURES AND TO PROVIDE FOR RULES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3022S, Idaho Code, and to read as follows:

63-3022S. RELIEF FROM JOINT AND SEVERAL LIABILITY ON JOINT RETURN. (1) An individual who has filed a joint return and who has been granted relief from joint and several liability by the internal revenue service shall have such relief recognized, granted and honored by the state tax commission for state income tax purposes.

(2) The tax commission shall promulgate such rules as are necessary to carry out the provisions of this section.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2014.

Approved March 13, 2014

CHAPTER 86
(S.B. No. 1328)

AN ACT

RELATING TO EMERGENCY MEDICAL SERVICES; AMENDING SECTION 56-1012, IDAHO CODE, TO REVISE THE DEFINITION OF EMERGENCY MEDICAL SERVICES.

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

SECTION 1. That Section 56-1012, Idaho Code, be, and the same is hereby amended to read as follows:

56-1012. DEFINITIONS. As used in sections 56-1011 through 56-1023, Idaho Code:

(1) "Advanced emergency medical technician" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(2) "Agency" means any organization licensed by the EMS bureau that operates an air medical service, ambulance service or nontransport service.

(3) "Air ambulance" means any privately or publicly owned fixed wing aircraft or rotary wing aircraft used for, or intended to be used for, the transportation of persons experiencing physiological or psychological illness or injury who may need medical attention during transport. This may

include dual or multipurpose vehicles which otherwise comply with sections 56-1011 through 56-1023, Idaho Code, and specifications established by board rule.

(4) "Air medical service" means an agency licensed by the EMS bureau that responds to requests for patient care and transportation from hospitals and EMS agencies using a fixed wing aircraft or rotary wing aircraft.

(5) "Ambulance" means any privately or publicly owned motor vehicle or nautical vessel used for, or intended to be used for, the transportation of sick or injured persons who may need medical attention during transport. This may include dual or multipurpose vehicles which otherwise comply with sections 56-1011 through 56-1023, Idaho Code, and specifications established by board rule.

(6) "Ambulance service" means an agency licensed by the EMS bureau operated with the intent to provide personnel and equipment for medical treatment at an emergency scene, during transportation or during transfer of persons experiencing physiological or psychological illness or injury who may need medical attention during transport.

(7) "Applicant" means any organization that is requesting an agency license under this chapter and includes the following:

(a) An organization seeking a new license;

(b) An existing agency that intends to change the level of licensed personnel it utilizes;

(c) An existing agency that intends to change its geographic coverage area, except by agency annexation;

(d) An existing nontransport service that intends to provide ambulance service;

(e) An existing ambulance service that intends to discontinue transport and become a nontransport service.

(8) "Board" means the Idaho board of health and welfare.

(9) "Commission" means the Idaho emergency medical services physician commission.

(10) "Department" means the Idaho department of health and welfare.

(11) "Emergency medical responder" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(12) "Emergency medical services" or "EMS" means ~~the system utilized in responding to a perceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury~~ aid rendered by an individual or group of individuals who do the following:

(a) Respond to a perceived need for medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury;

(b) Are prepared to provide interventions that are within the scope of practice as defined by the commission;

(c) Use an alerting mechanism to initiate a response to requests for medical care; and

(d) Offer, advertise or attempt to respond as described in paragraphs (a) through (c) of this subsection.

Aid rendered by a ski patroller, as described in section 54-1804(1)(h), Idaho Code, is not EMS.

(13) "EMS bureau" means the bureau of emergency medical services of the department.

(14) "Emergency medical technician" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through

56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(15) "Licensed personnel" means those individuals who are emergency medical responders, emergency medical technicians, advanced emergency medical technicians and paramedics.

(16) "National emergency medical services information system technical assistance center" means an organization that validates software for compliance with the EMS data set defined by the United States department of transportation national highway traffic safety administration.

(17) "Nontransport service" means an agency licensed by the EMS bureau, operated with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended to be the service that will actually transport sick or injured persons.

(18) "Nontransport vehicle" means any vehicle operated by an agency with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended as the vehicle that will actually transport sick or injured persons.

(19) "Paramedic" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(20) "Supervision" means the medical direction by a licensed physician of activities provided by licensed personnel affiliated with a licensed ambulance, air medical or nontransport service, including, but not limited to: establishing standing orders and protocols, reviewing performance of licensed personnel, providing instructions for patient care via radio or telephone, and other oversight.

(21) "Transfer" means the transportation of a patient from one (1) medical care facility to another.

Approved March 13, 2014

CHAPTER 87
(S.B. No. 1312)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1306, IDAHO CODE, TO INCLUDE ADDITIONAL REFERENCES TO THE INTERNAL REVENUE CODE, TO REMOVE ARCHAIC REFERENCE TO AN EFFECTIVE DATE AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Section 59-1306, Idaho Code, be, and the same is hereby amended to read as follows:

59-1306. CONFORMITY WITH FEDERAL TAX CODE TO MAINTAIN QUALIFIED PLAN TAX STATUS. Chapter 13, title 59, and chapter 14, title 72, Idaho Code, shall be administered in a manner so as to comply with the requirements of 26 U.S.C. section 401(a) (8), (9), (16), (25), and (31), (36) and (37) and with the vesting requirements described in 26 U.S.C. section 411(e) (2). The public employees retirement system board shall promulgate rules and amend or repeal conflicting rules in order to assure compliance with the requirements of this these sections. This chapter shall be in full force and effect ~~on and after January 1, 1989, and thereafter only so long as conformity to section~~

401(a) of the internal revenue code, 26 U.S.C., compliance with paragraphs (8), (9), (16), (25), (31), (36) and (37) of subsection 401(a) and paragraph (2) of subsection 411(e) of the Internal Revenue Code is required for public retirement systems. If compliance with any such paragraph is, at any point not longer required, this provision or the applicable portion thereof, will cease to have any force or effect.

SECTION 2. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved March 13, 2014

CHAPTER 88
(S.B. No. 1239)

AN ACT

RELATING TO DUTIES OF PUBLIC ADMINISTRATORS; AMENDING SECTION 14-105, IDAHO CODE, TO REVISE DUTIES OF THE PUBLIC ADMINISTRATOR REGARDING THE ASSETS OF ESTATES TAKEN INTO HIS POSSESSION.

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

SECTION 1. That Section 14-105, Idaho Code, be, and the same is hereby amended to read as follows:

14-105. INVENTORY BY PUBLIC ADMINISTRATOR -- PROCEDURES AND DISTRIBUTION OF RESIDUAL. (1) The public administrator must make and return an inventory of all assets of estates taken into his possession, less debts of the decedent and projected costs of administration. Such net inventory must include all assets present or ascertainable at the time he takes possession of the estate. He shall administer and account for the same, converting the assets into money according to the provisions of this title, subject to the control and direction of the court.

(2) When, as shown by the inventory, the estate amounts to less than one five thousand dollars (\$15,000), no notice to creditors or other formal proceedings by the public administrator are required. The public administrator shall pay funeral expenses, the expenses of the last sickness, administration and such other expenses as may be deemed appropriate by the public administrator including, but not limited to, those enumerated in section 14-120, Idaho Code. After the payment of such expenses, the court must order the residue, if any, paid as may be just to such creditors or heirs as may appear, or into the state treasury with the report of abandoned property required in section 14-517, Idaho Code, upon final distribution of the estate.

Approved March 13, 2014

CHAPTER 89
(S.B. No. 1269)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-3608, IDAHO CODE, TO PROVIDE THAT THE ASSOCIATION MAY PROVIDE CLAIMS HANDLING SERVICES TO RUN-OFF INSURERS.

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

SECTION 1. That Section 41-3608, Idaho Code, be, and the same is hereby amended to read as follows:

41-3608. OBLIGATIONS AND POWERS OF ASSOCIATION. (1) The association shall:

(a) Be obligated to pay covered claims existing prior to the order of liquidation arising within thirty (30) days after the order of liquidation, or before the policy expiration date if less than thirty (30) days after the order of liquidation, or before the insured replaces the policy or causes its cancellation, if he does so within thirty (30) days of the order of liquidation. Such obligation shall be satisfied by paying to the claimant an amount as follows:

(i) The full amount of a covered claim for benefits under a worker's compensation insurance coverage;

(ii) An amount not exceeding ten thousand dollars (\$10,000) per policy for covered claim for the return of unearned premium;

(iii) An amount not exceeding three hundred thousand dollars (\$300,000) per claim for all other covered claims.

(b) In no event shall the association be obligated to pay a claimant an amount in excess of the obligation of the insolvent insurer under the policy or coverage from which the claim arises.

Notwithstanding any other provision of this chapter, a covered claim shall not include any claim filed with the association after the earlier of: (i) eighteen (18) months after the date of the order of liquidation, or (ii) the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer and shall not include any claim filed with the association or a liquidator for protection afforded under the insured policy for incurred-but-not-reported losses. Any obligation of the association to defend an insured shall cease upon the association's payment by settlement releasing the insured or on a judgment of an amount equal to the lesser of the association's covered claim obligation limit or the applicable policy limit.

(c) Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent including, but not limited to, the right to pursue and retain salvage and subrogation recoverable on paid covered claim obligations.

(d) Assess member insurers separately for amounts necessary to pay the obligations of the association under paragraph (a) of this subsection subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency and other expenses authorized by this chapter. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment on the kinds of insurance covered by the account bears to the net direct written premiums of all member insurers for the calendar year preceding the assessment on the kinds of insurance covered by the account. Each member insurer shall be notified of the assessment not later than thirty (30) days before

it is due. No member insurer may be assessed in any one (1) year an amount greater than one percent (1%) of that member insurer's net direct written premiums for the calendar year preceding the assessment. If the maximum assessment, together with the other assets of the association in the account, does not provide in any one (1) year an amount sufficient to make all necessary payments, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. The association shall pay claims in any order which it deems reasonable, including the payment of claims as such are received from the claimants or in groups or categories of claims. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance; provided, however, that during the period of deferment, no dividends shall be paid to shareholders or policyholders. Deferred assessments shall be paid when such payment will not reduce capital or surplus below required minimums. Such payments shall be refunded to those companies receiving larger assessments by virtue of such deferment, or at the election of any such company, credited against future assessments. Each member insurer may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by the member insurer if they are chargeable to the account.

(e) Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims and may review settlements, releases and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which such settlements, releases and judgments may be properly contested. The association shall have the right to appoint or substitute and to direct legal counsel retained under liability insurance policies for the defense of covered claims.

(f) Handle claims through its employees or through one (1) or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the director, but such designation may be declined by a member insurer.

(g) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this chapter.

(2) The association may:

(a) Employ or retain such persons as are necessary to handle claims and perform other duties of the association.

(b) Borrow funds necessary to effect the purposes of this chapter in accord with the plan of operation.

(c) Sue or be sued, and such power to sue includes the power and right to intervene as a party before any court that has jurisdiction over the insolvent insurer as defined by this chapter.

(d) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this chapter.

(e) Perform such other acts as are necessary or proper to effectuate the purpose of this chapter.

(f) Refund to the member insurers in proportion to the contribution of each member insurer that amount which, in the opinion of the board of directors, will not be needed for the purposes of this chapter within two (2) years from the date the association receives the refund from the receivership.

(g) Subject to approval by the director, provide claims handling services to any run-off insurer, provided the association expenses related to such services are fully reimbursed. Normal defenses applicable to guaranty fund handling of covered claims shall not apply to run-off claim handling and no guaranty fund assets shall be used for run-off claim or expense payment. There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer, the association or its agents or employees, the board of directors or any person serving as a representative of any director for any action taken or any failure to act by them in the performance of their activities under the provisions of this paragraph. For purposes of this paragraph, "run-off insurer" means a property and casualty insurer that has:

- (i) Total adjusted capital under risk-based capital requirements in an amount less than the authorized control level risk-based capital as defined in section 41-5401(11)(a), Idaho Code, and has indicated that it will cease writing new insurance policies, either as part of its corrective action plan or pursuant to being placed under regulatory control; or
- (ii) Total adjusted capital under risk-based capital requirements in an amount less than the mandatory control level risk-based capital as defined in section 41-5401(11)(c), Idaho Code, and that has not been placed into liquidation pursuant to sections 41-3317 and 41-3318, Idaho Code.

Approved March 13, 2014

CHAPTER 90
(S.B. No. 1348)

AN ACT

RELATING TO MOTOR VEHICLE FINANCIAL LIABILITY; AMENDING SECTION 2, CHAPTER 147, LAWS OF 2009, TO REVISE A SUNSET PROVISION, TO PROVIDE FOR A CERTIFICATION AND TO REVISE A DATE.

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

SECTION 1. That Section 2, Chapter 147, Laws of 2009, be, and the same is hereby amended to read as follows:

SECTION 2. The provisions of this act shall be null, void and of no force and effect on and after June 30, 2014⁷, unless prior to that date the Director of the Idaho Transportation Department certifies to the Secretary of State in writing that the Idaho Transportation Department's information technology system has been sufficiently updated. Beginning January 1, 2010⁵, the department shall report to the Senate Transportation Committee and the House Transportation and Defense Committee on progress that the department is making toward upgrading and implementing the Division of Motor Vehicle's automated system. Such report shall be submitted no later than January 1 of each year.

Approved March 13, 2014

CHAPTER 91
(S.B. No. 1305)

AN ACT

RELATING TO COMMERCIAL DRIVER'S LICENSES; AMENDING SECTION 49-105, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 49-123, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-105, Idaho Code, be, and the same is hereby amended to read as follows:

49-105. DEFINITIONS -- D. (1) "Dealer" means every person in the business of buying, selling or exchanging five (5) or more new or used vehicles, new or used neighborhood electric vehicles, new or used motorcycles, motor-driven cycles, snow machines or motorbikes, travel trailers, truck campers, all-terrain vehicles, utility type vehicles or motor homes in any calendar year, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, or who has an established place of business for the sale, lease, trade, or display of these vehicles. No insurance company, bank, finance company, public utilities company, or other person coming into possession of any vehicle, as an incident to its regular business, who shall sell that vehicle under any contractual rights it may have, shall be considered a dealer. See also "salvage pool," section 49-120, Idaho Code.

(2) "Dealer's selling agreement." (See "Franchise," section 49-107, Idaho Code)

(3) "Department" means the Idaho transportation department acting directly or through its duly authorized officers and agents, except in chapters 6 and 9, title 49, Idaho Code, where the term means the Idaho state police, except as otherwise specifically provided.

(4) "Designated family member" means the spouse, child, grandchild, parent, brother or sister of the owner of a vehicle dealership who, in the event of the owner's death, is entitled to inherit the ownership interest in the dealership under the same terms of the owner's will, or who has been nominated in any other written instrument, or who, in the case of an incapacitated owner of a dealership, has been appointed by a court as the legal representative of the dealer's property.

(5) "Director" means the director of the Idaho transportation department, except in chapters 6, 9 and 22, title 49, Idaho Code, where the term means the director of the Idaho state police.

(6) "Disclose" means to engage in any practice or conduct to make available and make known personal information contained in records of the department about a person to any other person, organization or entity, by any means of communication.

(7) "Disqualification" as defined in 49 CFR part 383, means withdrawal by the department of commercial vehicle driving privileges.

(8) "Distributor" means any person, firm, association, corporation or trust, resident or nonresident, who has a franchise from a manufacturer of vehicles to distribute vehicles in this state, and who in whole or in part sells or distributes new vehicles to dealers or who maintains distributor representatives.

(9) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

(10) "Distributor representative" means any person, firm, association, corporation or trust, and each officer and employee thereof engaged as a representative of a distributor or distributor branch of vehicles for the pur-

pose of making or promoting the sale of vehicles, or for supervising or contacting dealers or prospective dealers.

(11) "District" means:

(a) Business district. The territory contiguous to and including a highway when within any six hundred (600) feet along the highway there are buildings in use for business or industrial purposes, including hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.

(b) Residential district. The territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred (300) feet or more is in the main improved with residences, or residences and buildings in use for business.

(c) Urban district. The territory contiguous to and including any highway which is built up with structures devoted to business, industry or dwelling houses. For purposes of establishing speed limits in accordance with the provisions of section 49-654, Idaho Code, no state highway or any portion thereof lying within the boundaries of an urban district is subject to the limitations which otherwise apply to nonstate highways within an urban district.

(12) "Documented vessel" means a vessel having a valid marine document as a vessel of the United States.

(13) "Downgrade" as it pertains to commercial drivers licensing shall mean either:

(a) The driver has changed his or her medical requirement self-certification to interstate but operates exclusively in transportation or operations excepted from part 391 of the federal motor carrier safety regulations; or

(b) The driver has changed his or her medical requirement self-certification to intrastate and operates exclusively in transportation or operations as listed in section 67-2901B(2), Idaho Code; or

(c) The driver no longer has commercial motor vehicle driving privileges, but has retained privileges to drive noncommercial motor vehicles.

(14) "Drag race" means the operation of two (2) or more vehicles from a point side by side at accelerating speeds in a competitive attempt to out-distance each other, or the operation of one (1) or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of the vehicles within a certain distance or time limit.

(15) "Driver" means every person who drives or is in actual physical control of a vehicle.

(16) "Driver's license" means a license or permit issued by the department or by any other jurisdiction to an individual which authorizes the individual to operate a motor vehicle or commercial motor vehicle on the highways in accordance with the requirements of title 49, Idaho Code.

(17) "Driver's license -- Classes of" are issued for the operation of a vehicle based on the size of the vehicle or the type of load and mean:

(a) Class A. This license shall be issued and valid for the operation of any combination of motor vehicles with a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds, provided the manufacturer's gross vehicle weight rating (GVWR) of the vehicle(s) being towed is in excess of ten thousand (10,000) pounds. Persons holding a valid class A license may also operate vehicles requiring a class B, C or D license.

(b) Class B. This license shall be issued and valid for the operation of any single vehicle with a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds, or any such

vehicle towing a vehicle not in excess of ten thousand (10,000) pounds manufacturer's gross vehicle weight rating (GVWR). Persons holding a valid class B license may also operate vehicles requiring a class C license or a class D license.

(c) Class C. This license shall be issued and valid for the operation of any single vehicle or combination of vehicles that does not meet the definition of class A or class B, as defined in this section, but that either is designed to transport sixteen (16) or more people including the driver, or is of any size which does not meet the definition of class A or class B and is used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded under the federal hazardous materials regulations 49 CFR part 172, subpart F. Persons holding a valid class C license may also operate vehicles requiring a class D license.

(d) Class D. This license shall be issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in section 49-123, Idaho Code.

(e) "Seasonal driver's license" means a special restricted class B or C driver's license to operate certain commercial vehicles in farm-related industries under restrictions imposed by the department. As used in this definition, "farm-related industry" shall mean custom harvesters, farm retail outlets and suppliers, agri-chemical businesses and livestock feeders. Seasonal driver's licenses are not valid for driving vehicles carrying any quantities of hazardous material requiring placarding, except for diesel fuel in quantities of one thousand (1,000) gallons or less, liquid fertilizers, i.e., plant nutrients, in vehicles or implements of husbandry with total capacities of three thousand (3,000) gallons or less, and solid fertilizers, i.e., solid plant nutrients, that are not mixed with any organic substance.

(18) "Driver record" means any record that pertains to an individual's driver's license, driving permit, driving privileges, driving history, identification documents or other similar credentials issued by the department.

(19) "Driver's license endorsements" means special authorizations that are required to be displayed on a driver's license which permit the driver to operate certain types of commercial vehicles or commercial vehicles hauling certain types of cargo, or to operate a motorcycle or a school bus.

(a) "Endorsement T -- Double/Triple trailer" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle authorized to tow more than one (1) trailer.

(b) "Endorsement H -- Hazardous material" means this endorsement is required on a class A, B or C license if the driver is operating a vehicle used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded under the federal hazardous materials regulations 49 CFR part 172, subpart F.

(c) "Endorsement P -- Passenger" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle designed to transport sixteen (16) or more people including the driver.

(d) "Endorsement N -- Tank vehicle" means this endorsement is required on a class A, B or C license to permit the licensee to operate a tank vehicle which is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in federal regulations 49 CFR part 171. This definition does not include portable tanks having a rated capacity under one thousand (1,000) gallons as defined in section 49-123, Idaho Code.

(e) "Endorsement M -- Motorcycle" means this endorsement is required on a driver's license to permit the driver to operate a motorcycle or motor-driven cycle.

(f) "Endorsement S -- School bus" means this endorsement is required on a class A, B or C license to permit the licensee to operate a school bus in accordance with 49 CFR part 383, to transport preprimary, primary or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(20) "Driveway" means a private road giving access from a public way to a building on abutting grounds.

(21) "Dromedary tractor" means every motor vehicle designed and used primarily for drawing a semitrailer and so constructed as to carry manifested cargo in addition to a part of the weight of the semitrailer.

SECTION 2. That Section 49-123, Idaho Code, be, and the same is hereby amended to read as follows:

49-123. DEFINITIONS -- V. (1) "Variable load suspension axle" means an axle or axles designed to support a part of the vehicle and load and which can be regulated to vary the amount of load supported by such an axle or axles and which can be deployed or lifted by the operator of the vehicle. (See also section 49-117, Idaho Code.)

(a) "Fully raised" means that the variable load suspension axle is in an elevated position preventing the tires on such axle from having any contact with the roadway.

(b) "Fully deployed" means that the variable load suspension axle is supporting a portion of the weight of the loaded vehicle as controlled by the preset pressure regulator valve.

(2) "Vehicle" means:

(a) General. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(b) Authorized emergency vehicle. Vehicles operated by any fire department or law enforcement agency of the state of Idaho or any political subdivision of the state, ambulances, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, wreckers which are engaged in motor vehicle recovery operations and are blocking part or all of one (1) or more lanes of traffic, other emergency vehicles designated by the director of the Idaho state police or vehicles authorized by the Idaho transportation board and used in the enforcement of laws specified in section 40-510, Idaho Code, pertaining to vehicles of ten thousand (10,000) pounds or greater.

(c) Commercial vehicle or commercial motor vehicle. For the purposes of chapters 3 and 9 of this title, driver's licenses and vehicle equipment, a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

(i) Has a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds inclusive of a towed unit with a manufacturer's gross vehicle weight rating (GVWR) of more than ten thousand (10,000) pounds; or

(ii) Has a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds; or

(iii) Is designed to transport sixteen (16) or more people, including the driver; or

(iv) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the hazardous material transportation act and which require the motor vehicle to be placarded under the hazardous materials regulations (49 CFR part 172, subpart F).

For the purposes of chapter 4, title 49, Idaho Code, motor vehicle registration, a vehicle or combination of vehicles of a type used or maintained for the transportation of persons for hire, compensation or profit, or the transportation of property for the owner of the vehicle, or for hire, compensation, or profit, and shall include fixed load specially constructed vehicles exceeding the limits imposed by chapter 10, title 49, Idaho Code, and including drilling rigs, construction, drilling and wrecker cranes, log jammers, log loaders, and similar vehicles which are normally operated in an overweight or oversize condition or both, but shall not include those vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code, or exempted by section 49-426, Idaho Code. A motor vehicle used in a ridesharing arrangement that has a seating capacity for not more than fifteen (15) persons, including the driver, shall not be a "commercial vehicle" under the provisions of this title relating to equipment requirements, rules of the road, or registration.

(d) Farm vehicle. A vehicle or combination of vehicles owned by a farmer or rancher, which are operated over public highways, and used exclusively to transport unprocessed agricultural, dairy or livestock products raised, owned and grown by the owner of the vehicle to market or place of storage; and shall include the transportation by the farmer or rancher of any equipment, supplies or products purchased by that farmer or rancher for his own use, and used in the farming or ranching operation or used by a farmer partly in transporting agricultural products or livestock from the farm of another farmer that were originally grown or raised on the farm, or when used partly in transporting agricultural supplies, equipment, materials or livestock to the farm of another farmer for use or consumption on the farm but not transported for hire, and shall not include vehicles of husbandry or vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code.

(e) Foreign vehicle. Every vehicle of a type required to be registered under the provisions of this title brought into this state from another state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.

(f) Glider kit vehicle. Every large truck manufactured from a kit manufactured by a manufacturer of large trucks which consists of a frame, cab complete with wiring, instruments, fenders and hood and front axles and wheels. The "glider kit" is made into a complete assembly by the addition of the engine, transmission, rear axles, wheels and tires.

(g) Motor vehicle. Every vehicle which is self-propelled, and for the purpose of titling and registration meets federal motor vehicle safety standards as defined in section 49-107, Idaho Code. Motor vehicle does not include vehicles moved solely by human power, electric personal assistive mobility devices and motorized wheelchairs or other such vehicles that are specifically exempt from titling or registration requirements under title 49, Idaho Code.

(h) Multipurpose passenger vehicle (MPV). For the purposes of section 49-966, Idaho Code, a motor vehicle designed to carry ten (10) or fewer persons which is constructed either on a truck chassis or with special features for occasional off-road operation.

(i) Neighborhood electric vehicle (NEV). A self-propelled, electrically-powered, four-wheeled motor vehicle which is emission free and conforms to the definition and requirements for low-speed vehicles as adopted in the federal motor vehicle safety standards for low-speed vehicles under federal regulations at 49 CFR part 571. An NEV shall be titled, registered and insured according to law as provided respectively in chapters 4, 5 and 12, title 49, Idaho Code, and shall only be operated by a licensed driver. Operation of an NEV on a highway shall be allowed as provided in section 49-663, Idaho Code.

(j) Noncommercial vehicle. For the purposes of chapter 4, title 49, Idaho Code, motor vehicle registration, a noncommercial vehicle shall not include those vehicles required to be registered under sections 49-402 and 49-402A, Idaho Code, and means all other vehicles or combinations of vehicles which are not commercial vehicles or farm vehicles, but shall include motor homes. A noncommercial vehicle shall include those vehicles having a combined gross weight not in excess of sixty thousand (60,000) pounds and not held out for hire, used for purposes related to private use and not used in the furtherance of a business or occupation for compensation or profit or for transporting goods for other than the owner.

(k) Passenger car. For the purposes of section 49-966, Idaho Code, a motor vehicle, except a multipurpose passenger vehicle, motorcycle or trailer, designed to carry ten (10) or fewer persons.

(l) Rebuilt salvage vehicle. Every vehicle that has been rebuilt or repaired using like make and model parts and visually appears as a vehicle that was originally constructed under a distinctive manufacturer. This includes a salvage vehicle which is damaged to the extent that a "rebuilt salvage" brand is required to be added to the title.

(m) Reconstructed vehicles. Vehicles which have been reconstructed by the use of a kit designed to be used to construct an exact replica of a vehicle which was previously constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles. A glider kit vehicle is not a reconstructed vehicle.

(n) Replica vehicle. A vehicle made to replicate any passenger car or truck previously manufactured, using metal, fiberglass or other composite materials. Replica vehicles must look like the original vehicle being replicated but may use a more modern drive train. At a minimum, replica vehicles shall meet the same federal motor vehicle safety and emission standards in effect for the year and type of vehicle being replicated.

(o) Salvage vehicle. Any vehicle for which a salvage certificate, salvage bill of sale or other documentation showing evidence that the vehicle has been declared salvage or which has been damaged to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor minus the salvage value makes it uneconomical to repair or rebuild. When an insurance company has paid money or has made other monetary settlement as compensation for a total loss of any vehicle, such vehicle shall be considered to be a salvage vehicle.

(p) Specially constructed vehicle. Every vehicle of a type required to be registered not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction and cannot be visually identified as a vehicle produced by a particular manufacturer. This includes:

(i) A vehicle that has been structurally modified so that it does not have the same appearance as a similar vehicle from the same manufacturer; or

(ii) A vehicle that has been constructed entirely from homemade parts and materials not obtained from other vehicles; or

(iii) A vehicle that has been constructed by using major component parts from one (1) or more manufactured vehicles and cannot be identified as a specific make or model; or

(iv) A vehicle constructed by the use of a custom kit that cannot be visually identified as a specific make or model. All specially constructed vehicles of a type required to be registered shall be certified by the owner to meet all applicable federal motor vehicle safety standards in effect at the time construction is completed, and all requirements of chapter 9, title 49, Idaho Code.

(q) Specialty off-highway vehicle. A specialty off-highway vehicle as defined in section 67-7101, Idaho Code.

(r) Tank vehicle.

(i) Any commercial motor vehicle transporting, or designed to transport, any liquid or gaseous materials within:

1. A tank that is either permanently or temporarily attached or secured to the vehicle or chassis and has a rated capacity of one thousand (1,000) gallons or more; or

2. Multiple tanks either permanently or temporarily attached or secured, when the aggregate rated capacity of those tanks is one thousand (1,000) gallons or more, as determined by adding the capacity of each individual tank with a capacity of more than one hundred nineteen (119) gallons.

(ii) If a commercial motor vehicle transports one (1) or more tanks that are manifested either as empty or as residue and that are actually empty or contain only residue, those tanks shall not be considered in determining whether the vehicle is a tank vehicle.

(qs) Total loss vehicle. Every vehicle that is deemed to be uneconomical to repair. A total loss shall occur when an insurance company or any other person pays or makes other monetary settlement to the owner when it is deemed to be uneconomical to repair the damaged vehicle. The compensation for total loss as defined herein shall not include payments by an insurer or other person for medical care, bodily injury, vehicle rental or for anything other than the amount paid for the actual damage to the vehicle.

(3) "Vehicle identification number." (See "Identifying number," section 49-110, Idaho Code)

(4) "Vehicle salesman" means any person who, for a salary, commission or compensation of any kind, is employed either directly or indirectly, or regularly or occasionally by any dealer to sell, purchase or exchange, or to negotiate for the sale, purchase or exchange of vehicles. (See also "Full-time salesman," section 49-107, Idaho Code, and "Part-time salesman," section 49-117, Idaho Code)

(5) "Vessel." (See section 67-7003, Idaho Code)

(6) "Veteran." (See section 65-502, Idaho Code)

(7) "Violation" means a conviction of a misdemeanor charge involving a moving traffic violation, or an admission or judicial determination of the commission of an infraction involving a moving traffic infraction, except bicycle infractions.

SECTION 3. This act shall be in full force and effect on and after July 8, 2014.

CHAPTER 92
(S.B. No. 1304)

AN ACT

RELATING TO DRIVER'S LICENSES; AMENDING SECTION 49-307, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A PERMIT; AMENDING SECTION 49-310, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN APPLICATIONS; AND AMENDING SECTION 49-313, IDAHO CODE, TO REVISE PROVISIONS RELATING TO RETAKING A TEST.

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

SECTION 1. That Section 49-307, Idaho Code, be, and the same is hereby amended to read as follows:

49-307. CLASS D DRIVER'S TRAINING INSTRUCTION PERMIT AND TEMPORARY PERMITS -- CLASS D SUPERVISED INSTRUCTION PERMIT -- APPLICATION FOR A CLASS D DRIVER'S LICENSE -- RESTRICTIONS ON CLASS D DRIVER'S LICENSE. (1) No enrollee of any class D driver's training course shall be allowed to attend classes or participate in driving instruction unless he has obtained a class D driver's training instruction permit, or a class D instruction permit as provided in subsection (4) of this section.

(2) Every enrollee of a class D driver's training course shall pay a nonrefundable fee of fifteen dollars (\$15.00). Five dollars (\$5.00) of each fee so imposed shall be deposited in the driver training account, five dollars (\$5.00) shall be deposited in the state highway account, and five dollars (\$5.00) shall be deposited in the county current expense fund.

(3) Each enrollee of a class D driver's training course shall provide the type of information required for a driver's license or instruction permit. If an enrollee of a class D driver's training course cannot provide a certified copy of his birth certificate at the time of application for a permit, the department may issue a temporary class D driver's training instruction permit or a temporary class D instruction permit upon receipt of both a photo identification and a letter from the school verifying the applicant's enrollment in a driver's training course acceptable to the department. The certified copy of an applicant's birth certificate shall be required before a class D driver's license will be issued.

(4) The class D driver's training instruction permit shall expire five (5) days after the permittee's eighteenth birthday for permittees fourteen and one-half (14 1/2) years of age through seventeen and one-half (17 1/2) years of age. The class D driver's training instruction permit shall expire one hundred eighty (180) days from the date of issue for persons seventeen and one-half (17 1/2) years of age or older. Persons aged seventeen (17) years or older may attend classes or participate in driver's training instruction while operating with a class D instruction permit or a class D driver's training instruction permit.

(5) The class D driver's training instruction permit shall be issued to the instructor of the course.

(6) Class D supervised instruction permit.

(a) Upon successful completion of the class D driver's training course, the driver's training instructor shall submit the student log to the county driver's license office and give the class D driver's training instruction permit to the parent or legal guardian of the permittee, and the parent or legal guardian shall assume responsibility for ensuring that the permittee complies with the requirements of operating a vehicle with a class D supervised instruction permit. The class D driver's training instruction permit shall then serve as a class D supervised instruction permit.

(b) In the event the permittee reaches the age of seventeen (17) years while operating a class D vehicle with a class D supervised instruction permit, the supervised instruction permit shall become a class D instruction permit.

(7) No permittee may apply for a class D driver's license sooner than fifteen (15) years of age and no sooner than six (6) months after completing a class D driver's training course, during which time the permittee shall satisfy all requirements for operation of a class D vehicle with a class D supervised instruction permit as follows:

(a) The permittee shall not operate a vehicle unless he is accompanied by a driver who holds a valid driver's license, is twenty-one (21) years of age or older, and who is actually occupying a seat beside the permittee driver. The supervising driver and the permittee shall be the only occupants of the front passenger section of the vehicle.

(b) Over a period of time not less than six (6) months, the permittee shall accumulate at least fifty (50) hours of supervised driving time, ten (10) hours of which shall be during hours of darkness.

(c) The permit shall be in the permittee's immediate possession at all times while operating a vehicle.

(d) In addition to the permittee driver and the supervising driver, all other occupants of the vehicle shall wear a seat belt or be restrained by child passenger restraints as required by law.

(e) The permittee is subject to the provisions of sections 18-1502 and 18-8004, Idaho Code, relating to violation of age restrictions on consumption of beer, wine, and alcohol and driving under the influence of alcohol, drugs or any other intoxicating substances, respectively.

(f) The permittee shall not have been convicted of any moving traffic violation, or have had driving privileges suspended by the department or the court for any offense, or found to be in violation of any of the restrictions on the class D supervised instruction permit, for a period of at least six (6) months from the date the driver's training instructor gave the permit to the parent or legal guardian, or from the date a canceled class D supervised instruction permit was reissued, or until the permittee reaches seventeen (17) years of age.

(g) If the permittee is under seventeen (17) years of age and is convicted of a violation of any traffic law, or section 18-1502, Idaho Code, or section 18-8004, Idaho Code, or section 23-949, Idaho Code, or is found to be in violation of any of the restrictions on the class D supervised instruction permit, the department shall cancel the class D supervised instruction permit, and the cancellation shall not be used to establish rates of motor vehicle insurance charged by a casualty insurer. If the permittee is under seventeen (17) years of age, the permittee may reapply for and be issued a new class D supervised instruction permit upon payment of the appropriate fee, and shall again be required to operate with the class D supervised instruction permit for at least six (6) months from the date of reissue without a conviction or suspension, accumulate the required hours of driving time and adhere to the requirements as specified in paragraphs (a) through (f) of this subsection (7).

(8) Upon completion of the requirements in subsection (7) of this section, the permittee shall take the knowledge test and skills test administered by a person certified by the Idaho transportation department to administer knowledge and skills tests.

(9) Upon passage of the knowledge and skills tests, the permittee may apply for a class D driver's license with driving privileges restricted to daylight hours for persons under sixteen (16) years of age, and with full privileges at sixteen (16) years of age or older. Provided however, the restriction on daylight hours only driving privileges for persons under sixteen (16) years of age shall not apply if:

(a) The person under sixteen (16) years of age has a valid class D driver's license; and

(b) Is accompanied by a driver who holds a valid driver's license and is twenty-one (21) years of age or older and is actually occupying a seat beside the licensee who is under sixteen (16) years of age; and

(c) The two (2) licensed drivers are the only occupants of the front passenger section of the vehicle.

The restriction of daylight hours only shall mean that period of time one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset.

(10) Upon passage of the knowledge and skills tests, the permittee may apply for a class D driver's license. Any such licensee who is under the age of seventeen (17) years shall be required, during the first six (6) months from the date of issue of the class D driver's license, to limit the number of passengers in the vehicle who are under the age of seventeen (17) years to not more than one (1) such passenger. Provided however, the limit of one (1) passenger under the age of seventeen (17) years shall not apply to passengers who are related to the driver by blood, adoption or marriage.

SECTION 2. That Section 49-310, Idaho Code, be, and the same is hereby amended to read as follows:

49-310. APPLICATIONS OF PERSONS UNDER THE AGE OF EIGHTEEN YEARS. (1) The application of any person under the age of eighteen (18) years for any class D instruction permit, restricted driver's license, restricted school attendance driving permit, driver training instruction permit or driver's license shall be signed and verified before a person authorized to administer oaths by either the father or mother of the applicant, if both are living and have custody of him; or if either be dead, then by the surviving parent who has custody of him; or by the Idaho resident host of a foreign exchange student, or in the event neither parent is living, or if living and does not have the custody of the applicant, then by the person or guardian having such custody, with verifiable custody or guardianship documents, or by an employer of the applicant. In the event there is no guardian or employer then some other responsible person willing to assume the obligation for the applicant may sign the application. Any person who signs the applicant's application shall attest that the applicant is in compliance with the school attendance provisions of section 49-303A, Idaho Code, ~~and when signing for a class D driver's training permit or a class D supervised instruction permit,~~ When the minor person applies for a class D driver's license, a parent or guardian or a person authorized by the parent or guardian shall attest that the minor person has satisfied the requirements and conditions applicable to the class D supervised instruction permit pursuant to section 49-307, Idaho Code, when the minor person applies for a class D driver's license. The person willing to assume responsibility for the applicant must be at least eighteen (18) years of age. When signing for a restricted school attendance driving permit, the person signing the applicant's application shall attest that the conditions set forth within section 49-307A, Idaho Code, are met. Each application for a restricted school attendance driving permit shall also be signed by the local county sheriff, the president of the board of trustees of the local school district, and the school principal of the applicant's school, verifying that the conditions set forth within section 49-307A, Idaho Code, are met.

(2) Any negligence or willful misconduct of a person under the age of eighteen (18) years when operating a motor vehicle upon a highway shall be imputed to the person who signed the application of that person for a permit or driver's license, and that person shall be jointly and severally liable with the permit or driver's license holder for any damage caused by negligence or willful misconduct, except as otherwise provided by law.

(3) In the event a permit or driver's license holder under the age of eighteen (18) years maintains, or there is maintained upon his behalf, proof of financial responsibility as required under the motor vehicle financial responsibility laws of this state, or by the director if the form and amount is not fixed by law, then the department may accept the application when signed by one (1) parent or guardian of the applicant, and while that proof is maintained the parent or guardian shall not be subject to liability for the negligence or willful misconduct of the person under the age of eighteen (18) years, as imposed under subsection (2) of this section.

(4) Any person who has signed the application of a minor for a permit or driver's license shall be liable civilly for the payment of any court penalty imposed because the minor has been found to have committed an infraction violation. The provisions of this section shall not apply or create any civil liability for the person signing the application in connection with any pedestrian or bicycle infraction, and provided this subsection shall not apply to any civil action where the plaintiff is other than the state of Idaho.

SECTION 3. That Section 49-313, Idaho Code, be, and the same is hereby amended to read as follows:

49-313. EXAMINATION OF APPLICANTS. (1) The sheriff, his deputy or authorized agents of the department shall examine every applicant for an instruction permit, restricted school attendance driving permit, seasonal driver's license, driver's license or a motorcycle endorsement, except as otherwise provided by law. The examination shall include a vision screening and a test of the applicant's ability to read and understand highway signs regulating, warning, and directing traffic. A skills test shall be required for an applicant who has not been previously licensed for the class of license requested, or who holds a license issued by another country unless a reciprocal agreement is in force. However, a skills test may be required for any and all other applicants at the discretion of the examiner or department for a class A, B, C or D driver's license or a motorcycle endorsement. In addition, the applicant's knowledge of traffic laws of this state and when a motorcycle endorsement is applied for, the applicant's knowledge of safe motorcycle operating practices and traffic laws specifically relating to motorcycle operation shall be tested by a written examination, except as provided in section 49-319, Idaho Code. At the discretion of the examiner, the prescribed written examination may be conducted orally.

(2) The knowledge and skills examinations for applicants for driver's licenses in class A, B or C shall be conducted in compliance with 49 CFR part 383.

(3) The skills test for a class A, B, C or D driver's license or for any endorsement shall be given by the department or its authorized agents. The skills examiner for a motorcycle endorsement shall be certified by the division of professional-technical education.

(4) The department shall not issue the following endorsements except as provided:

(a) A tank, double/triple trailer, or hazardous material endorsement unless the applicant, in addition to all other applicable qualifications, has passed an appropriate knowledge test.

(b) A passenger endorsement unless the applicant, in addition to all other applicable qualifications, has passed an appropriate knowledge and skills test.

(c) A school bus endorsement unless the applicant, in addition to all other applicable qualifications, has passed appropriate knowledge and skills tests. Until September 30, 2005, the department may waive the school bus endorsement skills test requirement if the applicant meets the conditions set forth in accordance with 49 CFR part 383.123.

(5) Any person failing to pass a knowledge or skills test for a class A, B, C or D driver's license, or a knowledge test for a seasonal driver's license, or any endorsement may not retake the test within three (3) business calendar days of the failure.

(6) Any person retaking a knowledge or skills test for a driver's license shall pay the appropriate testing fee as specified in section 49-306, Idaho Code.

(7) The motorcycle skills test for a motorcycle endorsement shall be waived by the department:

(a) On and after September 1, 1998, if the applicant presents satisfactory evidence of successful completion of a recognized motorcycle rider training course approved by the division of professional-technical education;

(b) On and after September 1, 1998, if the applicant presents evidence of a motorcycle endorsement on his current license by a state or province which requires a motorcycle skills test equivalent to that required by Idaho law as determined by the division of professional-technical education;

(c) Until September 1, 1998.

(8) At the discretion of the department, an alternate skills test for the motorcycle endorsement may be administered when the endorsement is for operation of a three-wheeled motorcycle only.

(9) The department or its authorized agents may refuse to give an applicant a skills test if there are reasonable grounds to believe that the safety of the applicant, public, or the examiner would be jeopardized by doing so. Reasonable grounds would include, but not be limited to, the applicant's inability to pass the vision screening, written tests, or a statement by a licensed physician stating the applicant is not physically able to drive a motor vehicle.

(10) The department or its authorized agents may deny issuance or renewal of a driver's license or endorsement to any applicant who does not meet the licensing requirements for the class of driver's license or endorsement being renewed or issued.

(11) Skills examinations for seasonal driver's licenses shall be waived.

Approved March 13, 2014

CHAPTER 93

(S.B. No. 1265, As Amended)

AN ACT

RELATING TO AIRPORT ZONING; AMENDING SECTION 21-502, IDAHO CODE, TO REMOVE CERTAIN PROVISIONS RELATING TO AVIATION HAZARDS CONTRARY TO PUBLIC INTEREST; REPEALING SECTION 21-503, IDAHO CODE, RELATING TO AIRPORT ZONING REGULATIONS; REPEALING SECTION 21-504, IDAHO CODE, RELATING TO PROCEDURE FOR ZONING AN AVIATION HAZARD AREA; REPEALING SECTION 21-505, IDAHO CODE, RELATING TO AIRPORT ZONING REQUIREMENTS; REPEALING SECTION 21-505A, IDAHO CODE, RELATING TO PERMITS AND VARIANCES, MARKING AND LIGHTING; REPEALING SECTION 21-505B, IDAHO CODE, RELATING TO RELATION TO COMPREHENSIVE ZONING REGULATIONS; REPEALING SECTION 21-506, IDAHO CODE, RELATING TO JUDICIAL REVIEW; REPEALING SECTION 21-507, IDAHO CODE, RELATING TO ENFORCEMENT AND REMEDIES; REPEALING SECTION 21-508, IDAHO CODE, RELATING TO ACQUISITION OF AIR RIGHTS; AMENDING SECTION 67-6502, IDAHO CODE, TO REVISE TERMINOLOGY AND TO PROVIDE THAT PUBLIC AIRPORTS ARE ESSENTIAL COMMUNITY FACILITIES; AMENDING SECTION 67-6508, IDAHO CODE, TO PROVIDE FOR PUBLIC AIRPORT FACILITIES IN THE PLANNING

DUTIES OF A PLANNING AND ZONING COMMISSION; AMENDING SECTION 67-6509, IDAHO CODE, TO PROVIDE THAT NOTICE OF INTENT TO AMEND A ZONING PLAN SHALL BE SENT TO THE MANAGER OF A LOCAL AIRPORT; AMENDING SECTION 67-6512, IDAHO CODE, TO PROVIDE THAT A STUDY OF AVIATION HAZARDS MAY BE REQUIRED FOR A SPECIAL USE PERMIT; AMENDING SECTION 67-6515A, IDAHO CODE, TO PROVIDE FOR NOTICE AND HEARING IN THE TRANSFER OF DEVELOPMENT RIGHTS AND TO PROVIDE THAT AVIATION HAZARDS SHALL BE AVOIDED IN THE TRANSFER OF DEVELOPMENT RIGHTS; AND AMENDING SECTION 67-6516, IDAHO CODE, TO PROVIDE FOR NOTICE AND HEARING IN THE CONSIDERATION OF VARIANCE PERMITS.

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

SECTION 1. That Section 21-502, Idaho Code, be, and the same is hereby amended to read as follows:

21-502. AVIATION HAZARDS CONTRARY TO PUBLIC INTEREST. It is hereby found that an aviation hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft thus tending to destroy or impair the utility of the airport and the public investment therein. Accordingly, it is hereby declared:

(a) That the creation or establishment of an aviation hazard is a public nuisance and an injury to the community served by the airport in question;

(b) That it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of aviation hazards be prevented;

~~(c) That this should be accomplished, to the extent legally possible, by exercise of the police power, without compensation.~~

~~It is further declared that both the prevention of the creation or establishment of aviation hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing aviation hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land and property interests therein.~~

SECTION 2. That Sections 21-503, 21-504, 21-505, 21-505A, 21-505B, 21-506, 21-507 and 21-508, Idaho Code, be, and the same are hereby repealed.

SECTION 3. That Section 67-6502, Idaho Code, be, and the same is hereby amended to read as follows:

67-6502. PURPOSE. The purpose of this act shall be to promote the health, safety and general welfare of the people of the state of Idaho as follows:

(a) To protect property rights while making accommodations for other necessary types of development such as low-cost housing and mobile home parks.

(b) To ensure that adequate public facilities and services are provided to the people at reasonable cost.

(c) To ensure that the economy of the state and localities is protected.

(d) To ensure that the important environmental features of the state and localities are protected.

(e) To encourage the protection of prime agricultural, forestry and mining lands and land uses for production of food, ~~fibre~~ fiber and minerals, as well as the economic benefits they provide to the community.

(f) To encourage urban and urban-type development within incorporated cities.

(g) To avoid undue concentration of population and overcrowding of land.

(h) To ensure that the development on land is commensurate with the physical characteristics of the land.

(i) To protect life and property in areas subject to natural hazards and disasters.

(j) To protect fish, wildlife and recreation resources.

(k) To avoid undue water and air pollution.

(l) To allow local school districts to participate in the community planning and development process so as to address public school needs and impacts on an ongoing basis.

(m) To protect public airports as essential community facilities that provide safe transportation alternatives and contribute to the economy of the state.

SECTION 4. That Section 67-6508, Idaho Code, be, and the same is hereby amended to read as follows:

67-6508. PLANNING DUTIES. It shall be the duty of the planning or planning and zoning commission to conduct a comprehensive planning process designed to prepare, implement, and review and update a comprehensive plan, hereafter referred to as the plan. The plan shall include all land within the jurisdiction of the governing board. The plan shall consider previous and existing conditions, trends, compatibility of land uses, desirable goals and objectives, or desirable future situations for each planning component. The plan with maps, charts, and reports shall be based on the following components as they may apply to land use regulations and actions unless the plan specifies reasons why a particular component is unneeded.

(a) Property Rights -- An analysis of provisions which may be necessary to ensure that land use policies, restrictions, conditions and fees do not violate private property rights, adversely impact property values or create unnecessary technical limitations on the use of property and analysis as prescribed under the declarations of purpose in chapter 80, title 67, Idaho Code.

(b) Population -- A population analysis of past, present, and future trends in population including such characteristics as total population, age, sex, and income.

(c) School Facilities and Transportation -- An analysis of public school capacity and transportation considerations associated with future development.

(d) Economic Development -- An analysis of the economic base of the area including employment, industries, economies, jobs, and income levels.

(e) Land Use -- An analysis of natural land types, existing land covers and uses, and the intrinsic suitability of lands for uses such as agriculture, forestry, mineral exploration and extraction, preservation, recreation, housing, commerce, industry, and public facilities. A map shall be prepared indicating suitable projected land uses for the jurisdiction.

(f) Natural Resources -- An analysis of the uses of rivers and other waters, forests, range, soils, harbors, fisheries, wildlife, minerals, thermal waters, beaches, watersheds, and shorelines.

(g) Hazardous Areas -- An analysis of known hazards as may result from susceptibility to surface ruptures from faulting, ground shaking, ground failure, landslides or mudslides; avalanche hazards resulting from development in the known or probable path of snowslides and avalanches, and floodplain hazards.

(h) Public Services, Facilities, and Utilities -- An analysis showing general plans for sewage, drainage, power plant sites, utility transmission corridors, water supply, fire stations and fire fighting equipment, health and welfare facilities, libraries, solid waste disposal sites, schools, public safety facilities and related services. The plan may also show locations of civic centers and public buildings.

(i) Transportation -- An analysis, prepared in coordination with the local jurisdiction(s) having authority over the public highways and streets, showing the general locations and widths of a system of major traffic thoroughfares and other traffic ways, and of streets and the recommended treatment thereof. This component may also make recommendations on building line setbacks, control of access, street naming and numbering, and a proposed system of public or other transit lines and related facilities including rights-of-way, terminals, future corridors, viaducts and grade separations. The component may also include port, harbor, ~~aviation~~, and other related transportation facilities.

(j) Recreation -- An analysis showing a system of recreation areas, including parks, parkways, trailways, river bank greenbelts, beaches, playgrounds, and other recreation areas and programs.

(k) Special Areas or Sites -- An analysis of areas, sites, or structures of historical, archeological, architectural, ecological, wildlife, or scenic significance.

(l) Housing -- An analysis of housing conditions and needs; plans for improvement of housing standards; and plans for the provision of safe, sanitary, and adequate housing, including the provision for low-cost conventional housing, the siting of manufactured housing and mobile homes in subdivisions and parks and on individual lots which are sufficient to maintain a competitive market for each of those housing types and to address the needs of the community.

(m) Community Design -- An analysis of needs for governing landscaping, building design, tree planting, signs, and suggested patterns and standards for community design, development, and beautification.

(n) Agriculture -- An analysis of the agricultural base of the area including agricultural lands, farming activities, farming-related businesses and the role of agriculture and agricultural uses in the community.

(o) Implementation -- An analysis to determine actions, programs, budgets, ordinances, or other methods including scheduling of public expenditures to provide for the timely execution of the various components of the plan.

(p) National Interest Electric Transmission Corridors -- After notification by the public utilities commission concerning the likelihood of a federally designated national interest electric transmission corridor, prepare an analysis showing the existing location and possible routing of high voltage transmission lines, including national interest electric transmission corridors based upon the United States department of energy's most recent national electric transmission congestion study pursuant to sections 368 and 1221 of the energy policy act of 2005. "High-voltage transmission lines" means lines with a capacity of one hundred fifteen thousand (115,000) volts or more supported by structures of forty (40) feet or more in height.

(q) Public Airport Facilities -- An analysis prepared with assistance from the Idaho transportation department division of aeronautics, if requested by the planning and zoning commission, and the manager or person in charge of the local public airport identifying, but not limited to, facility locations, the scope and type of airport operations, existing and future planned airport development and infrastructure needs, and the economic impact to the community.

Nothing herein shall preclude the consideration of additional planning components or subject matter.

SECTION 5. That Section 67-6509, Idaho Code, be, and the same is hereby amended to read as follows:

67-6509. RECOMMENDATION AND ADOPTION, AMENDMENT, AND REPEAL OF THE PLAN. (a) The planning or planning and zoning commission, prior to recom-

mending the plan, amendment, or repeal of the plan to the governing board, shall conduct at least one (1) public hearing in which interested persons shall have an opportunity to be heard. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the plan to be discussed shall be published in the official newspaper or paper of general circulation within the jurisdiction. The commission shall also make available a notice to other papers, radio and television stations serving the jurisdiction for use as a public service announcement. Notice of intent to adopt, repeal or amend the plan shall be sent to all political subdivisions providing services within the planning jurisdiction, including school districts and the manager or person in charge of the local public airport, at least fifteen (15) days prior to the public hearing scheduled by the commission. Following the commission hearing, if the commission recommends a material change to the proposed amendment to the plan which was considered at the hearing, it shall give notice of its proposed recommendation and conduct another public hearing concerning the matter if the governing board will not conduct a subsequent public hearing concerning the proposed amendment. If the governing board will conduct a subsequent public hearing, notice of the planning and zoning commission recommendation shall be included in the notice of public hearing provided by the governing board. A record of the hearings, findings made, and actions taken by the commission shall be maintained by the city or county.

(b) The governing board, as provided by local ordinance, prior to adoption, amendment, or repeal of the plan, may conduct at least one (1) public hearing, in addition to the public hearing(s) conducted by the commission, using the same notice and hearing procedures as the commission. The governing board shall not hold a public hearing, give notice of a proposed hearing, nor take action upon the plan, amendments, or repeal until recommendations have been received from the commission. Following consideration by the governing board, if the governing board makes a material change in the recommendation or alternative options contained in the recommendation by the commission concerning adoption, amendment or repeal of a plan, further notice and hearing shall be provided before the governing board adopts, amends or repeals the plan.

(c) No plan shall be effective unless adopted by resolution by the governing board. A resolution enacting or amending a plan or part of a plan may be adopted, amended, or repealed by definitive reference to the specific plan document. A copy of the adopted or amended plan shall accompany each adopting resolution and shall be kept on file with the city clerk or county clerk.

(d) Any person may petition the commission or, in absence of a commission, the governing board, for a plan amendment at any time, unless the governing board has established by resolution a minimum interval between consideration of requests to amend, which interval shall not exceed six (6) months. The commission may recommend amendments to the comprehensive plan and to other ordinances authorized by this chapter to the governing board at any time.

SECTION 6. That Section 67-6512, Idaho Code, be, and the same is hereby amended to read as follows:

67-6512. SPECIAL USE PERMITS, CONDITIONS, AND PROCEDURES. (a) As part of a zoning ordinance each governing board may provide by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, for the processing of applications for special or conditional use permits. A special use permit may be granted to an applicant if the proposed use is conditionally permitted by the terms of the ordinance, subject to conditions pursuant to specific provisions of the ordinance, subject to the ability of political subdivi-

sions, including school districts, to provide services for the proposed use, and when it is not in conflict with the plan. Denial of a special use permit or approval of a special use permit with conditions unacceptable to the landowner may be subject to the regulatory taking analysis provided for by section 67-8003, Idaho Code, consistent with requirements established thereby.

(b) Prior to granting a special use permit, at least one (1) public hearing in which interested persons shall have an opportunity to be heard shall be held. At least fifteen (15) days prior to the hearing, notice of the time and place, and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Each local government is encouraged to post such notice on its official websites, if one is maintained. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement. Notice shall be posted on the premises not less than one (1) week prior to the hearing. Notwithstanding jurisdictional boundaries, notice shall also be provided to property owners or purchasers of record within the land being considered, three hundred (300) feet of the external boundaries of the land being considered, and any additional area that may be substantially impacted by the proposed special use as determined by the commission, provided that in all cases notice shall be provided individually by mail to property owners or purchasers of record within the land being considered and within three hundred (300) feet of the external boundaries of the land being considered and provided further that where a special use permit is requested by reason of height allowance that notice shall be provided individually by mail to property owners or purchasers of record within no less than three (3) times the distance of the height of the allowed height of a structure when more than one hundred (100) feet and within no less than one (1) mile when the peak height of a structure in an unincorporated area is four hundred (400) feet or more and, when four hundred (400) feet or more, the structure's proposed location and height shall be stated in the notice. Any property owner entitled to specific notice pursuant to the provisions of this subsection shall have a right to participate in public hearings before a planning commission, planning and zoning commission or governing board.

(c) When notice is required to two hundred (200) or more property owners or purchasers of record, alternate forms of procedures which would provide adequate notice may be provided by local ordinance in lieu of mailed notice. In the absence of a locally adopted alternative notice procedure, sufficient notice shall be deemed to have been provided if the city or county provides notice through a display advertisement at least four (4) inches by two (2) columns in size in the official newspaper of the city or county at least fifteen (15) days prior to the hearing date, in addition to site posting on all external boundaries of the site.

(d) Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those:

- (1) Minimizing adverse impact on other development;
- (2) Controlling the sequence and timing of development;
- (3) Controlling the duration of development;
- (4) Assuring that development is maintained properly;
- (5) Designating the exact location and nature of development;
- (6) Requiring the provision for on-site or off-site public facilities or services;
- (7) Requiring more restrictive standards than those generally required in an ordinance;
- (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction.

(e) Prior to granting a special use permit, studies may be required of the social, economic, fiscal, and environmental effects and any aviation hazard as defined in section 21-501(2), Idaho Code, of the proposed special use. A special use permit shall not be considered as establishing a binding precedent to grant other special use permits. A special use permit is not transferable from one (1) parcel of land to another.

(f) In addition to other processes permitted by this chapter, exceptions or waivers of standards, other than use, inclusive of the subject matter addressed by section 67-6516, Idaho Code, in a zoning ordinance may be permitted through issuance of a special use permit or by administrative process specified by ordinance, subject to such conditions as may be imposed pursuant to a local ordinance drafted to implement subsection (d) of this section.

SECTION 7. That Section 67-6515A, Idaho Code, be, and the same is hereby amended to read as follows:

67-6515A. TRANSFER OF DEVELOPMENT RIGHTS. (1) Any city or county governing body may, by ordinance and following notice and hearing procedures provided for under section 67-6509, Idaho Code, create development rights and establish procedures authorizing landowners to voluntarily transfer said development rights subject to:

(a) Such conditions as the governing body shall determine to fulfill the goals of the city or county to preserve open space, protect wildlife habitat and critical areas, and enhance and maintain the rural character of lands with contiguity to agricultural lands suitable for long-range farming and ranching operations and avoid creation of aviation hazards as defined in section 21-501(2), Idaho Code; and

(b) Voluntary acceptance by the landowner of the development rights and any land use restrictions conditional to such acceptance.

(2) Before designating sending areas and receiving areas, a city or county shall conduct an analysis of the market in an attempt to assure that areas designated as receiving areas will have the capacity to accommodate the number of development rights expected to be generated from the sending areas.

(3) Ordinances providing for a transfer of development rights shall not require a property owner in a sending area to sell development rights. Once a transfer of development rights has been exercised it shall constitute a restriction on the development of the property in perpetuity, unless the city or county elects to extinguish such restriction pursuant to the provisions of this chapter.

(4) A city or county may not condition an application for a permit to which an applicant is otherwise entitled under existing zoning and subdivision ordinances on the acquisition of development rights. A city or county may not condition an application for a zoning district boundary change which is consistent with the comprehensive plan on the acquisition of development rights. A city or county may not reduce the density of an existing zone and thereafter require an applicant to acquire development rights as a condition of approving a request for a zoning district boundary change which would permit greater density.

(5) It shall be at the discretion of the persons selling and buying a transferable development right to determine whether a right will be transferred permanently without being exercised in a designated receiving area or whether a right will have requirements to be exercised within a designated receiving area within a set time period. If the development right is not used before the end of the time period provided by written contract and any extension thereof, the development right will revert to the owner of the property from which it was transferred.

(6) No transfer of a development right, as contemplated herein, shall affect the validity or continued right to use any water right that is appurtenant to the real property from which such development right is transferred. The transfer of a water right shall remain subject to the provisions of title 42, Idaho Code.

(7) (a) Ordinances providing for the transfer of development rights shall prescribe procedures for the issuance and recording of the instruments necessary to sever development rights from the sending property and to affix the development rights to the receiving property. These instruments shall specifically describe the property, shall be executed by all lienholders and other parties with an interest of record in any of the affected property, and shall be recorded with the county recorder. Transfers of development rights without such written and recorded consent shall be void.

(b) A development right which is transferred shall be deemed to be an interest in real property and the rights evidenced thereby shall inure to the benefit of the transferee, his heirs, successors and assigns. An unexercised development right shall not be taxed as real or personal property.

(8) For the purposes of this section:

(a) "Development rights" shall mean the rights permitted to a lot, parcel or area of land under a zoning or other ordinance respecting permissible use, area, density, bulk or height of improvements. Development rights may be calculated and allocated in accordance with such factors as area, floor area, floor area ratios, density, height limitations, or any other criteria that will effectively quantify a value for the development right in a reasonable and uniform manner that will carry out the objectives of this section.

(b) "Receiving area" shall mean one (1) or more designated areas of land to which development rights generated from one (1) or more sending areas may be transferred and in which increased development is permitted to occur by reason of such transfer.

(c) "Sending area" shall mean one (1) or more designated areas of land in which development rights may be designated for use in one (1) or more receiving areas.

(d) "Transfer of development rights" shall mean the process by which development rights are transferred from one (1) lot, parcel or area of land in any sending area to another lot, parcel or area of land in one (1) or more receiving areas.

SECTION 8. That Section 67-6516, Idaho Code, be, and the same is hereby amended to read as follows:

67-6516. VARIANCE -- DEFINITION -- APPLICATION -- NOTICE -- HEARING. Each governing board shall provide, as part of the zoning ordinance, for the processing of applications for variance permits. A variance is a modification of the bulk and placement requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest. Prior to granting a variance, notice and an opportunity to be heard shall be provided to property owners adjoining the parcel under consideration and the manager or person in charge of the local airport if the variance could create an aviation hazard as defined in section 21-501, Idaho Code. Denial of a variance permit or approval of a variance permit with conditions unacceptable to the landowner may be

subject to the regulatory taking analysis provided for by section 67-8003, Idaho Code, consistent with the requirements established thereby.

Approved March 13, 2014

CHAPTER 94
(S.B. No. 1242)

AN ACT

RELATING TO HEALTH REIMBURSEMENT ARRANGEMENTS; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5761C, IDAHO CODE, TO PROVIDE HEALTH REIMBURSEMENT ARRANGEMENTS FOR STATE EMPLOYEES, TO DEFINE TERMS AND TO PROVIDE FOR RULEMAKING AUTHORITY.

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

SECTION 1. That Chapter 57, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5761C, Idaho Code, and to read as follows:

67-5761C. HEALTH REIMBURSEMENT ARRANGEMENTS FOR STATE EMPLOYEES. (1) The department of administration may offer a health reimbursement arrangement as an approved benefit for all state employees or officers whose employer chooses to offer such a benefit to its employees or officers. All state employees or officers shall, for themselves and their eligible dependents, participate in a health reimbursement arrangement if the employer of such employees and officers chooses to offer the health reimbursement arrangement.

(2) For purposes of this section:

(a) "Health reimbursement arrangement" means an arrangement whereby employees may reimburse themselves for health care costs approved by the internal revenue service from a tax-exempt employee benefit trust known as a voluntary employees' beneficiary association.

(b) "Voluntary employees' beneficiary association" (VEBA) means a tax-exempt employee benefit trust governed under section 501(c)(9) of the Internal Revenue Code. A VEBA trust is managed by trustees elected by the employee members of the trust.

(3) The department of administration may promulgate rules to implement the provisions of this section.

Approved March 17, 2014

CHAPTER 95
(S.B. No. 1244)

AN ACT

RELATING TO THE STATE INSURANCE FUND; AMENDING SECTION 72-904, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE STATE INSURANCE FUND'S POWER TO SUE AND BE SUED; REPEALING SECTION 41-1618, IDAHO CODE, RELATING TO APPLICABILITY OF CHAPTER AS TO CERTAIN POWERS OF STATE INSURANCE MANAGER, AND TO CERTAIN PUBLIC EMPLOYMENT; REPEALING SECTION 72-903, IDAHO CODE, RELATING TO FURTHER STATEMENT OF POWERS; REPEALING SECTION 72-905, IDAHO CODE, RELATING TO CONTRACTS; REPEALING SECTION 72-909, IDAHO CODE, RELATING TO DELEGATION OF POWERS; REPEALING SECTION 72-913, IDAHO CODE, RELATING TO THE CLASSIFICATION OF RISKS AND ADJUSTMENT OF PREMIUMS; REPEALING SECTION 72-914, IDAHO CODE, RELATING TO ACCOUNTS; REPEALING

SECTION 72-917, IDAHO CODE, RELATING TO READJUSTMENTS OF PAYROLLS; REPEALING SECTION 72-918, IDAHO CODE, RELATING TO POLICIES AND PAYMENT OF PREMIUMS; REPEALING SECTION 72-919, IDAHO CODE, RELATING TO ACTIONS FOR COLLECTION IN CASE OF DEFAULT, PENALTY AND CANCELLATION OF POLICY; REPEALING SECTION 72-920, IDAHO CODE, RELATING TO WITHDRAWAL FROM FUND; REPEALING SECTION 72-921, IDAHO CODE, RELATING TO REINSURANCE; REPEALING SECTION 72-922, IDAHO CODE, RELATING TO AUDIT OF PAYROLLS; REPEALING SECTION 72-923, IDAHO CODE, RELATING TO FALSIFICATION OF PAYROLL; REPEALING SECTION 72-924, IDAHO CODE, RELATING TO WILLFUL MISREPRESENTATION; AND REPEALING SECTION 72-925, IDAHO CODE, RELATING TO INSPECTIONS.

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

SECTION 1. That Section 72-904, Idaho Code, be, and the same is hereby amended to read as follows:

72-904. POWER TO SUE AND BE SUED. The ~~manager~~ state insurance fund may, in ~~his~~ its official name, sue and be sued in all the courts of the state, and before the industrial commission in all actions or proceedings arising out of anything done or offered in connection with the state insurance fund or business relating thereto.

SECTION 2. That Sections 41-1618, 72-903, 72-905, 72-909, 72-913, 72-914, 72-917, 72-918, 72-919, 72-920, 72-921, 72-922, 72-923, 72-924 and 72-925, Idaho Code, be, and the same are hereby repealed.

Approved March 17, 2014

CHAPTER 96
(S.B. No. 1252, As Amended)

AN ACT

RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-301, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SECURITY FOR PAYMENT OF COMPENSATION; AND AMENDING CHAPTER 3, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-301A, IDAHO CODE, TO PROVIDE ALTERNATIVE SECURITY REQUIREMENTS FOR CERTAIN SELF-INSURED EMPLOYERS UNDER THE STATE WORKER'S COMPENSATION LAWS AND TO PROVIDE FOR RULES BY THE INDUSTRIAL COMMISSION.

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

SECTION 1. That Section 72-301, Idaho Code, be, and the same is hereby amended to read as follows:

72-301. SECURITY FOR PAYMENT OF COMPENSATION. (1) Every employer shall secure the payment of compensation under this law in one (1) of the following ways:

(1a) By insuring and keeping insured with a policy of worker's compensation insurance as defined in section 41-506(d), Idaho Code, the payment of compensation with any insurer, as defined in section 41-103, Idaho Code, authorized by the director of the department of insurance to transact such insurance, provided, that every public employer shall insure its liability for payment of compensation with the state insurance fund unless such fund shall refuse to accept the risk when the application for insurance is made; or

(2b) An employer may become self-insured by obtaining the approval of the industrial commission, and by depositing and maintaining in a

custodial account with the commission state treasurer money or acceptable security instruments satisfactory to the commission securing the payment by said employer of compensation according to the terms of this law. Such acceptable security may consist of instruments are bonds, treasury bills, interest-bearing notes or other obligations of the United States for which the full faith and credit of the United States is pledged for the payment of principal and interest. In lieu of such money or security instruments, the commission may allow or require such employer to file or maintain with the state treasurer a surety bond or guaranty contract with any company authorized to transact surety insurance in Idaho. The commission shall adopt rules governing the qualifications of self-insured employers, the nature and amount of security to be deposited and maintained with the commission state treasurer, and the conditions under which an employer may continue to be self-insured.

(2) No insurer shall be permitted to transact worker's compensation insurance covering the liability of employers under this law unless it shall have been authorized to do business under the laws of this state and until it shall have received the approval of the commission. To the end that the workers secured under this law shall be adequately protected, the commission shall require such insurer to deposit and maintain in a custodial account with the state treasurer of the state money or bonds acceptable security instruments of the United States or of this state, or interest-paying bonds when they are at or above par, or any other state of the United States or the District of Columbia, or the bonds of any county or municipal corporation of this or any other state of the United States or the District of Columbia in an amount equal to the total amounts of all outstanding and unpaid compensation awards against such insurer. Acceptable security instruments are bonds, treasury bills, interest-bearing notes or other obligations of the United States for which the full faith and credit of the United States is pledged for the payment of principal and interest. In lieu of such money or bonds security instruments, the commission may allow or require such insurer to file or maintain with the state treasurer of the state a surety bond of some company or companies authorized to do business in this state for and in the amounts equaling the total unpaid compensation awards against such insurer.

(3) When an insurer has been placed in liquidation, any security being held in a custodial account with the state treasurer under this section shall be converted into cash and transferred into the insolvent insurer fund created in subsection (4) of this section. Such funds shall continue to be held for the purpose of securing any future claims made against the insolvent insurer under this law or until released by the commission to the liquidator, if one exists, or to the insurer's state of domicile, as provided herein. Interest earned on moneys deposited in the insolvent insurer fund shall be credited, pro rata, to the account balance of security being held to answer claims made under this law against an insolvent insurer. Moneys deposited in the insolvent insurer fund may be used to pay the reasonable costs or expenses charged by any financial institution holding such funds on deposit for the state treasurer. Any balance in funds remaining on deposit in the insolvent insurer fund to answer the claims of an insolvent insurer after discharge of that insurer's liquidator may be transferred to the liquidator, if one still exists, or to the liquidated insurer's state of domicile, at such time as the commission determines that said security is no longer required to be held by the state treasurer for the purposes of this law.

(4) There is hereby created in the state treasury the insolvent insurer fund. Moneys in the fund are hereby continuously appropriated for the purposes set forth in the provisions of this section. Interest earned on moneys in the fund shall be returned to the fund.

(5) The approval by the commission of any insurer or self-insured employer may be withdrawn if it shall appear to the commission that workers secured thereby under this law are not fully protected.

SECTION 2. That Chapter 3, Title 72, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 72-301A, Idaho Code, and to read as follows:

72-301A. ALTERNATIVE MEANS OF SECURING SELF-INSURANCE. The provisions of section 72-301, Idaho Code, with respect to security, shall be met alternatively, by the employer demonstrating to the commission that security for its self-insured worker's compensation program is covered by a cost reimbursement contract with the federal government for work performed in connection with the Idaho national laboratory including research, development, demonstration, testing, national security, defense, environmental cleanup or waste management if the cost reimbursement contract provides for the payment as otherwise required in this chapter. An employer that becomes self-insured under this section is not required to provide and maintain a security deposit, is not required to have a payroll history and is not required to have excess insurance coverage. In addition, because of the federal government reimbursement, the employer's self-insurance program includes coverage for claims for events taking place before the effective date of the self-insured program, and no separate coverage or deposit for such claims is required.

The commission shall promulgate rules governing the administration of employer self-insurance under this section.

Approved March 17, 2014

CHAPTER 97
(S.B. No. 1258)

AN ACT

RELATING TO CODIFIER'S CORRECTIONS; AMENDING SECTION 16-1501, IDAHO CODE, TO MAKE A CODIFIER'S CORRECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-5623, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-5624, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 19-865, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-1003, IDAHO CODE, REMOVE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 25-3201, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 25-3203, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-4-613, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 28-5-120, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 28-41-201, IDAHO CODE, TO MAKE CODIFIER'S CORRECTIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-44-107, IDAHO CODE, TO MAKE A CODIFIER'S CORRECTION; AMENDING SECTION 28-49-101, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 28-51-105, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 30-1-630, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 30-1-1302, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 30-3-20, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 30-1604, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 30-1705, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-3403, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-3505, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 31-4819, IDAHO CODE, TO MAKE TECHNICAL

CORRECTIONS; AMENDING SECTION 33-1602, IDAHO CODE, TO MAKE A CODIFIER'S CORRECTION; AMENDING SECTION 38-1019, IDAHO CODE, TO MAKE A CODIFIER'S CORRECTION; AMENDING SECTION 40-312, IDAHO CODE, TO MAKE A CODIFIER'S CORRECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 40-317, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-716, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-3813, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; REPEALING SECTION 42-1736, IDAHO CODE, RELATING TO LEGISLATIVE REVIEW OF THE STATE WATER PLAN; AMENDING SECTION 49-244, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-420J, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING THE HEADING FOR CHAPTER 19, TITLE 49, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-1218, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2706, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 58-310, IDAHO CODE, TO REMOVE CODE REFERENCES; REPEALING SECTIONS 58-310A AND 58-310B, IDAHO CODE, RELATING TO LEASES OF LANDS; AND AMENDING SECTION 67-3002, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 16-1501, Idaho Code, be, and the same is hereby amended to read as follows:

16-1501. MINORS AND ADULTS MAY BE ADOPTED. Any minor child may be adopted by any adult person residing in and having residence in Idaho, in the cases and subject to the rules prescribed in this chapter.

(1) Persons not minors may be adopted by a resident adult in cases where the person adopting has sustained the relation of parent to such adopted person:

(a) For a period in excess of one (1) year while the person was a minor; or

(b) For such period of time or in such manner that the court after investigation finds a substantial family relationship has been created.

(2) Adoptions shall not be denied solely on the basis of the disability of a prospective adoptive parent. As used in this chapter:

(a) "~~Adaptive equipment,~~" ~~for purposes of this chapter,~~ means any piece of equipment or any item that is used to increase, maintain, or improve the parenting capabilities of a parent with a disability.

(b) "~~Disability,~~" ~~for purposes of this chapter,~~ means, with respect to an individual, any mental or physical impairment which substantially limits one (1) or more major life activities of the individual including, but not limited to, self-care, manual tasks, walking, seeing, hearing, speaking, learning, or working, or a record of such an impairment, or being regarded as having such an impairment. Disability shall not include transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, other sexual behavior disorders, or substance use disorders, compulsive gambling, kleptomania, or pyromania. Sexual preference or orientation is not considered an impairment or disability. Whether an impairment substantially limits a major life activity shall be determined without consideration of the effect of corrective or mitigating measures used to reduce the effects of the impairment.

(c) "~~Supportive services,~~" ~~as used in this chapter,~~ means services which assist a parent with a disability to compensate for those aspects of their disability which affect their ability to care for their child and which will enable them to discharge their parental responsibilities. The term includes specialized or adapted training, evaluations, or assistance with effective use of adaptive equipment, and accommodations which allow a parent with a disability to benefit from other services, such as Braille texts or sign language interpreters.

(3) If applicable, nothing in this chapter shall modify the requirements of the Indian child welfare act of 1978, 25 U.S.C. ~~section 1902~~ 1901, et seq.

SECTION 2. That Section 18-5623, Idaho Code, be, and the same is hereby amended to read as follows:

18-5623. PERSONAL PROPERTY -- RIGHTS OF THIRD PARTIES. (1) Within five (5) days of any of the events specified in section 18-5622, Idaho Code, notice, including a copy of the request for forfeiture, shall be given to each co-owner or party in interest who has or claims any right, title or interest in any such personal property according to one (1) of the following methods:

(a) Upon each co-owner or party in interest in a titled motor vehicle, aircraft or other conveyance, by mailing notice by certified mail to the address of each co-owner and party in interest as given upon the records of the appropriate department of state or federal government where records relating to such conveyances are maintained;

(b) Upon each secured party and assignee designated as such in any UCC-1 financing statement on file in an appropriate filing office covering any personal property sought to be forfeited, by mailing notice by certified mail to the secured party and the assignee, if any, at their respective addresses as shown on such financing statement; or

(c) Upon each co-owner or party in interest whose name and address is known, by mailing notice by registered mail to the last known address of such person.

(2) Within twenty (20) days after the mailing of the notice, the co-owner or party in interest may file a verified answer and claim to the property described in the notice.

(3) If a verified answer is filed within twenty (20) days after mailing of the notice, the forfeiture proceeding against all co-owners and parties in interest who have filed verified answers shall be set for hearing before the court without a jury on a day not less than sixty (60) days after the mailing of the notice; and the proceeding shall have priority over other civil cases.

(a) At the hearing, any co-owner or party in interest who has a verified answer on file may show by competent evidence that his interest in the titled motor vehicle, aircraft or other conveyance is not subject to forfeiture because he could not have known in the exercise of reasonable diligence that the titled motor vehicle, aircraft or other conveyance was being used, had been used or was intended to be used for the purposes described in section 18-5612, Idaho Code.

(b) A co-owner or claimant of any right, title or interest in the property may prove that his right, title or interest, whether under a lien, mortgage, security agreement, conditional sales contract or otherwise, was created without any knowledge or reason to believe that the property was being used, had been used or was intended to be used for the purpose alleged.

(i) In the event of such proof, the court shall order that portion of the property or interest released to the bona fide or innocent co-owner, purchaser, lienholder, mortgagee, secured party or conditional sales vendor.

(ii) If the amount due to such person is less than the value of the property, the property may be sold at public auction or in another commercially reasonable method by the attorney general or appropriate prosecuting attorney. If sold at public auction, the attorney general or appropriate prosecuting attorney shall publish a notice of the sale by at least one (1) publication in a newspaper published and circulated in the city, community or locality where the sale is to take place at least one (1) week prior to sale of the

property. The proceeds from such sale shall be distributed as follows in the order indicated:

1. To the bona fide or innocent co-owner, purchaser, conditional sales vendor, lienholder, mortgagee or secured party of the property, if any, up to the value of his interest in the property;
2. The balance, if any, in the following order:
 - (A) To the attorney general or appropriate prosecuting attorney for all expenditures made or incurred in connection with the sale, including expenditure for any necessary repairs, storage or transportation of the property, and for all expenditures made or incurred by him in connection with the forfeiture proceedings including, but not limited to, expenditures for witnesses' fees, reporters' fees, transcripts, printing, traveling and investigation.
 - (B) To the law enforcement agency of this state that seized the property for all expenditures for traveling, investigation, storage and other expenses made or incurred after the seizure and in connection with the forfeiture of any property seized under the provisions of this chapter.
 - (C) The remainder, if any, to the crime ~~victim's~~ victims compensation account as established in section 72-1009, Idaho Code.

(4) Notwithstanding any other provision of this section, upon being satisfied that the interest of a co-owner or claimant should not be subject to forfeiture because they neither knew nor should have known that the personal property was being used or had been used for the purposes alleged, or that due to preexisting security interests in such property there is no equity that may be forfeited, the attorney general or appropriate prosecuting attorney may release the property to the co-owner, holder of the security interest or other claimant.

(5) In any case, the attorney general or appropriate prosecuting attorney may, within thirty (30) days after order of forfeiture, pay the balance due to the bona fide lienholder, mortgagee, secured party or conditional sales vendor and thereby purchase the property for use to enforce this chapter.

SECTION 3. That Section 18-5624, Idaho Code, be, and the same is hereby amended to read as follows:

18-5624. REAL PROPERTY -- RIGHTS OF THIRD PARTIES. (1) Real property subject to forfeiture under the provisions of this chapter may be seized by the attorney general or appropriate prosecuting attorney upon determining that a parcel of property is subject to forfeiture, by filing a notice of seizure with the recorder of the county in which the property or any part thereof is situated. The notice must contain a legal description of the property sought to be forfeited; provided however, that in the event the property sought to be forfeited is part of a greater parcel, the attorney general or appropriate prosecuting attorney may, for the purposes of this notice, use the legal description of the greater parcel. The attorney general or appropriate prosecuting attorney shall also send by certified mail a copy of the notice of seizure to any persons holding a recorded interest or of whose interest the attorney general or appropriate prosecuting attorney has actual knowledge. The attorney general or appropriate prosecuting attorney shall post a similar copy of the notice conspicuously upon the property and publish a copy thereof once a week for three (3) consecutive weeks immediately following the seizure in a newspaper published in the

county. The co-owner or party in lawful possession of the property sought to be forfeited may retain possession and use thereof and may collect and keep income from the property while the forfeiture proceedings are pending.

(2) In the event of a seizure pursuant to subsection (1) of this section, a request for forfeiture shall be filed with the trial court within the time limit imposed by section 18-5620, Idaho Code. The request shall be served in the same manner as complaints subject to Idaho rules of civil procedure on all persons having an interest in the real property sought to be forfeited.

(3) Notwithstanding any other provision of this section, upon being satisfied that the interest of a co-owner or claimant should not be subject to forfeiture because they neither knew nor should have known that the real property was being used or had been used for the purposes alleged, or that due to preexisting security interests in such property there is no equity that may be forfeited, the attorney general or appropriate prosecuting attorney may release the property to the co-owner, holder of the security interest or other claimant.

(4) Within twenty (20) days of the mailing of the notice, the co-owner or party in interest may file a verified answer and claim to the property described in the notice.

(5) If a verified answer is filed within twenty (20) days after mailing of the notice, the forfeiture proceeding against all co-owners and parties in interest who have filed verified answers shall be set for hearing before the court without a jury on a day not less than sixty (60) days after the mailing of the notice; and the proceeding shall have priority over other civil cases.

(a) A co-owner or claimant of any right, title or interest in the real property sought to be forfeited may prove that his right, title or interest, whether under a lien, mortgage, deed of trust or otherwise, was created without any knowledge or reason to believe that the real property was being used or had been used for the purposes alleged;

(b) Any co-owner who has a verified answer on file may show by competent evidence that his interest in the property sought to be forfeited is not subject to forfeiture because he could not have known in the exercise of reasonable diligence that the real property was being used or had been used in any manner in violation of the provisions of section 18-5612, Idaho Code.

(6) In the event of such proof, the court shall order the release of the interest of the co-owner, purchaser, lienholder, mortgagee or beneficiary.

(a) If the amount due to such person is less than the value of the real property, the real property may be sold in a commercially reasonable manner by the attorney general or appropriate prosecuting attorney. The proceeds from such sale shall be distributed as follows in the order indicated:

(i) To the innocent co-owner, purchaser, mortgagee or beneficiary of the real property, if any, up to the value of his interest in the real property;

(ii) The balance, if any, in the following order:

1. To the attorney general or appropriate prosecuting attorney for all expenditures made or incurred in connection with the sale, including expenditure for any necessary repairs or maintenance of the real property, and for all expenditures made or incurred in connection with the forfeiture proceedings including, but not limited to, expenditures for witnesses' fees, reporters' fees, transcripts, printing, travel, investigation, title company fees and insurance premiums.

2. The remainder, if any, to the crime victim's victims compensation account as established in section 72-1009, Idaho Code.

(b) In any case, the attorney general or appropriate prosecuting attorney may, within thirty (30) days after the order of forfeiture, pay the balance due to the innocent co-owner, purchaser, lienholder, mortgagee or beneficiary and thereby purchase the real property for use in the enforcement of this chapter.

SECTION 4. That Section 19-865, Idaho Code, be, and the same is hereby amended to read as follows:

19-865. APPLICATION OF ACT -- STATE COURTS -- FEDERAL COURTS. This act applies only to representation in the courts of this state, except that it does not prohibit a defending attorney from representing an indigent person in a federal court of the United States, if:

(1) The matter arises out of or is related to an action pending or recently pending in a court of criminal jurisdiction of the state; or

(2) Representation is under a plan of the United States District Court as required by the criminal justice act of 1964, 18 U.S.C. 3006A, and is approved by the board of county commissioners.

SECTION 5. That Section 23-1003, Idaho Code, be, and the same is hereby amended to read as follows:

23-1003. BREWERS', DEALERS' AND WHOLESALERS' LICENSES. (a) Before any brewer shall manufacture or any dealer or wholesaler import or sell beer within the state of Idaho, he shall apply to the director for a license ~~so to do~~. The application form shall be prescribed and furnished by the director and require that the applicant ~~therein~~ show that he possesses all the qualifications and none of the disqualifications of a licensee. To determine qualification for a license, the director shall cause an investigation that shall include a fingerprint-based criminal history check of the Idaho central criminal history database and the federal bureau of investigation criminal history database. Each person listed as an applicant on an initial application shall submit a full set of fingerprints and the fee to cover the cost of the criminal history background check ~~for such person~~ with the application. The application shall also be accompanied by the required licensee fee; provided, that where the applicant is or will be within more than one (1) of the foregoing classifications, he shall apply for each classification but shall pay only one (1) license fee, which shall be for the classification ~~applied for~~ requiring the highest fee. If the director is satisfied that the applicant possesses the qualifications and none of the disqualifications for ~~such~~ the license, he shall issue a license for each classification applied for, subject to the restrictions and upon the conditions in this act specified, which license or licenses shall be at all times prominently displayed in the place of business of the licensee.

(b) Each wholesaler shall, in addition to the application, file with the director a notice in writing signed by the dealer or brewer and the wholesaler stating the geographic territory within which the wholesaler will distribute beer to retailers. ~~Said~~ The territory will be ~~the territory~~ agreed upon between the dealer or brewer and the wholesaler and may not be changed or modified without the consent of both the dealer or brewer and the wholesaler. Provided however, nothing ~~contained herein~~ in this section shall be interpreted to prohibit a brewer or dealer from permitting more than one (1) distributor for the same geographic territory.

(c) In the event that a wholesaler sells beer to a retailer who is located outside the geographical territory designated by ~~such~~ that wholesaler on the notice provided for in subsection (b) of this section, the dealer or

wholesaler who has designated the geographical territory in which the sale occurred may apply to a district court of this state for the issuance of an injunction enjoining sales of beer by the wholesaler outside of his designated geographical territory. The procedure for issuance of an injunction pursuant to this act shall be subject to the Idaho rules of civil procedure. Upon proof to the court that a wholesaler has made a sale of beer outside his designated geographical territory, the court shall issue an injunction directed to the wholesaler prohibiting sales of beer outside his designated geographical territory.

(d) Any brewer licensed within the state of Idaho who produces fewer than thirty thousand (30,000) barrels of beer annually, upon payment of a retailer's annual license fee, may be issued a brewer's retail beer license for the retail sale of the products of his brewery at his licensed premises or one (1) remote retail location, or both. Any brewer selling beer at retail or selling to a retailer must pay the taxes required in section 23-1008, Idaho Code, but need not be licensed as a wholesaler for the purpose of selling beer at the brewery or at one (1) remote retail location.

(e) Any brewer licensed within the state of Idaho who produces fewer than thirty thousand (30,000) barrels of beer annually, may be issued a brewer's pub license. Upon payment of a retailer's annual license fee, and subject to the fees in sections 23-1015 and 23-1016, Idaho Code, a brewer may, at his licensed brewery or at one (1) remote retail location, or both, sell at retail the products of any brewery by the individual bottle, can or glass. Any brewer selling beer at retail or selling to a retailer must pay the taxes required in section 23-1008, Idaho Code, on the products of his brewery, but need not be licensed as a wholesaler for the purpose of selling beer at the brewery or at one (1) remote retail location.

(f) A brewer licensed under the provisions of subsection (d) or (e) of this section may be licensed as a wholesaler for the sale of beer to retailers other than at the licensed brewery and one (1) remote retail location and shall not be required to pay an additional fee therefor. Such brewer shall, however, comply with and be subject to all other regulations or provisions of law which that apply to a wholesaler's license, save and except as such the laws may restrict such sales at the licensed brewery or one (1) other remote retail location. The holder of a brew pub license shall not be disqualified from holding a retail wine license or wine by the drink license for the sale of wine at the brew pub premises on the grounds that said the licensee is also licensed as a wholesaler.

SECTION 6. That Section 25-3201, Idaho Code, be, and the same is hereby amended to read as follows:

25-3201. DEFINITIONS. When used in this act:

(a₁) The term "rendering establishment" means a place of business that deals in rendering material of animal origin and processes it into finished products in such a way that risk, damage, or nuisance to animal or public health is avoided. Any person who receives from any other person the body of any dead animal for the purposes of obtaining the hide, skin, grease, meat, bones, or parts thereof from such animal for further processing to a finished form as described in paragraph (e₅) of this section is deemed to be engaged in the business of disposing and rendering of the bodies of dead animals or parts thereof.

(b₂) The term "rendering material" means and includes any dead animal not slaughtered as food for animals or man, or if slaughtered for food, becomes unsuitable for such use, and includes all parts of dead animals and all inedible by-products of animals slaughtered or processed as food.

(e₃) The term "animal" means any member of the animal kingdom such as fish, reptiles, birds and mammals, etc.

(d4) The term "4-D animals" means dead, dying, disabled, or diseased animals.

(e5) The term "finished products" means any product or material processed or manufactured from rendering material or from 4-D animals by a rendering establishment or establishment processing 4-D animals such as bone meal, blood meal, meat meal, tankage, feather meal, tallow, etc., or fresh frozen, partially cooked, or cooked or canned pet, fur animal, or other animal feed.

(f6) The term "establishments processing 4-D animals" means a place of business that processes the carcasses or any part of carcasses of 4-D animals to be used as feed for dogs, cats, fur-bearing or other animals.

(g7) The term "inspector" means a state employee trained and assigned to inspect rendering plants and establishments processing 4-D animals.

(h8) The term "department" means the state department of agriculture.

(i9) The term "laboratory tests" means tests conducted as deemed necessary by the department to ensure that the finished product meets required specifications for quality and safety (to include protein analysis, contaminating agents of disease, etc.); such laboratory tests to be performed in laboratories approved as provided in paragraph (h8) of this section and on samples of finished products collected by the inspector.

SECTION 7. That Section 25-3203, Idaho Code, be, and the same is hereby amended to read as follows:

25-3203. ESTABLISHING STANDARDS FOR ESTABLISHMENTS PRIOR TO APPLICATION FOR LICENSE. The license referred to in section 25-3202, ~~of this act~~ Idaho Code, shall be issued to an establishment only if the following requirements are met:

(a1) A fee of twenty-five dollars (\$25.00) for the issuance of a license shall be paid to the state by the licensee, subject to renewal each year.

(b2) All rendering establishments and establishments processing 4-D animals are to be constructed in such a manner as to protect the finished product and to prevent pollution of surrounding environment or creation of a nuisance to the public.

(e3) All rendering material shall be transported to the rendering establishment in covered and leak-proof vehicles, such vehicles to be used for this purpose only and to be cleaned and disinfected after delivering each load.

(d4) All rendering material shall be heated to a sufficient temperature for a sufficient length of time to destroy all pathogens, and processed under sanitary procedures that prohibit the recontamination of the product after cooking.

(e5) The finished product shall be transported from the rendering establishment or the establishment processing 4-D animals in a clean vehicle in such a manner that will prevent contamination.

(f6) Rendering establishments and establishments processing 4-D animals may be inspected periodically by an inspector who may procure samples for laboratory testing.

SECTION 8. That Section 28-4-613, Idaho Code, be, and the same is hereby amended to read as follows:

28-4-613. ERRONEOUS PAYMENT ORDERS. (1) If an accepted payment order was transmitted pursuant to a security procedure for the detection of error and the payment order (i) erroneously instructed payment to a beneficiary not intended by the sender, (ii) erroneously instructed payment in an amount greater than the amount intended by the sender, or (iii) was an erroneously transmitted duplicate of a payment order previously sent by the sender, the following rules apply:

(a) If the sender proves that the sender or a person acting on behalf of the sender pursuant to section 28-4-614, Idaho Code, complied with the security procedure and that the error would have been detected if the receiving bank had also complied, the sender is not obliged to pay the order to the extent stated in subsections (2) and (3) of this section.

(b) If the funds transfer is completed on the basis of an erroneous payment order described in clause (i) or (iii) of subsection (1) of this section, the sender is not obliged to pay the order and the receiving bank is entitled to recover from the beneficiary any amount paid to the beneficiary to the extent allowed by the law governing mistake and restitution.

(c) If the funds transfer is completed on the basis of a payment order described in clause (ii) of subsection (1) of this section, the sender is not obliged to pay the order to the extent the amount received by the beneficiary is greater than the amount intended by the sender. In that case, the receiving bank is entitled to recover from the beneficiary the excess amount received to the extent allowed by the law governing mistake and restitution.

(2) If (i) the sender of an erroneous payment order described in subsection (1) of this section is not obliged to pay all or part of the order, and (ii) the sender receives notification from the receiving bank that the order was accepted by the bank or that the sender's account was debited with respect to the order, the sender has a duty to exercise ordinary care, on the basis of information available to the sender, to discover the error with respect to the order and to advise the bank of the relevant facts within a reasonable time, not exceeding ninety (90) days, after the bank's notification was received by the sender. If the bank proves that the sender failed to perform that duty, the sender is liable to the bank for the loss the bank proves it incurred as a result of the failure, but the liability of the sender may not exceed the amount of the sender's order.

(3) This section applies to amendments to payment orders to the same extent it applies to payment orders.

SECTION 9. That Section 28-5-120, Idaho Code, be, and the same is hereby amended to read as follows:

28-5-120. SECURITY INTEREST OF ISSUER OR NOMINATED PERSON. (a) An issuer or nominated person has a security interest in a document presented under a letter of credit to the extent that the issuer or nominated person honors or gives value for the presentation.

(b) So long as and to the extent that an issuer or nominated person has not been reimbursed or has not otherwise recovered the value given with respect to a security interest in a document under subsection (a) of this section, the security interest continues and is subject to chapter 9, title 28, Idaho Code, but:

(1) A security agreement is not necessary to make the security interest enforceable under section 28-9-203(b) (3), Idaho Code;

(2) If the document is presented in a medium other than a written or other tangible medium, the security interest is perfected; and

(3) If the document is presented in a written or other tangible medium and is not a certificated security, chattel paper, a document of title, an instrument, or a letter of credit, the security interest is perfected and has priority over a conflicting security interest in the document so long as the debtor does not have possession of the document. This act applies to a letter of credit that is issued on or after the effective date of this act. This act does not apply to a transaction, event, obligation, or duty arising out of or associated with a letter of credit that was issued before the effective date of this act.

SECTION 10. That Section 28-41-201, Idaho Code, be, and the same is hereby amended to read as follows:

28-41-201. TERRITORIAL APPLICATION. (1) Except as otherwise provided in this section, this act applies to sales and loans made in this state and to modifications, including refinancings, consolidations, and deferrals, made in this state, of sales and loans, wherever made. For purposes of this act, a sale, loan or modification of a sale or loan is made in this state if:

(a) A written agreement evidencing the obligation or offer of the consumer is received by the creditor in this state; or

(b) A consumer who is a resident of this state enters into the transaction with a creditor who has solicited or advertised in this state by any means including, but not limited to, mail, brochure, telephone, print, radio, television, internet or any other electronic means.

(2) Notwithstanding subsection (1) (b) of this section, unless made subject to this act by agreement of the parties, a sale, loan or modification of a sale or loan is not made in this state if a resident of this state enters into the transaction while physically present in another state.

(3) The part on limitations on creditors' remedies, part 1 of the chapter on remedies and penalties, chapter 45, title 28, Idaho Code, applies to actions or other proceedings brought in this state to enforce rights arising from regulated credit sales or regulated loans, or extortionate extensions of credit, wherever made.

(4) If a regulated credit sale or regulated loan or modification thereof, is made in another state to a person who is a resident of this state when the sale, loan or modification is made, the following provisions apply as though the transaction occurred in this state:

(a) A seller, lender or assignee of his rights may not collect charges through actions or other proceedings in excess of those permitted by the chapter 42, title 28, Idaho Code, on finance charges and related provisions; and

(b) A seller, lender or assignee of his rights may not enforce rights against the buyer or debtor, with respect to the provisions of agreements which violate the provisions on limitations on agreements and practices, part 3, of chapter 43, title 28, Idaho Code.

(5) Except as provided in subsection (3) of this section, a sale, loan or modification thereof made in another state to a person who was not a resident of this state when the sale, loan or modification was made is valid and enforceable according to its terms to the extent that it is valid and enforceable under the laws of the state applicable to the transaction.

(6) For the purposes of this act, the residence of a buyer or debtor is the address given by him as his residence in any writing signed by him in connection with a credit transaction. Until he notifies the creditor of a new or different address, the given address is presumed to be unchanged.

(7) Notwithstanding other provisions of this section:

(a) Except as provided in subsection (3) of this section, this act does not apply if the buyer or debtor is not a resident of this state at the time of a credit transaction and the parties then agree that the law of his residence applies; and

(b) This act applies if the buyer or debtor is a resident of this state at the time of a credit transaction and the parties then agree that the law of this state applies.

(8) Except as provided in subsection (7) of this section, the following agreements by a buyer or debtor are invalid with respect to regulated credit sales, regulated loans or modifications thereof to which this act applies:

(a) That the law of another state shall apply;

(b) That the buyer or debtor consents to the jurisdiction of another state; and

(c) That fixes venue.

(9) Notwithstanding any other provision in this section, any person who, in this state, advertises, offers or solicits to make a loan for a consumer purpose, or arranges a payday loan for a third party lender, is engaging in business in this state for which a license is required under the Idaho credit code, unless exempt pursuant to section 28-46-301, Idaho Code.

SECTION 11. That Section 28-44-107, Idaho Code, be, and the same is hereby amended to read as follows:

28-44-107. MAXIMUM CHARGE BY CREDITOR FOR INSURANCE. (1) Except as provided in subsection (2) of this section, if a creditor contracts for or receives a separate charge for insurance, the amount charged to the debtor for the insurance may not exceed the premium to be charged by the insurer, as computed at the time the charge to the debtor is determined, conforming to any rate filings required by law and made by the insurer with the director of the department of insurance.

(2) A creditor who provides credit insurance in relation to open-end consumer credit, as defined in section 28-41-301, Idaho Code, may calculate the charge to the debtor in each billing cycle by applying the current premium rate to:

- (a) The average daily unpaid balance of the debt in the cycle;
- (b) The unpaid balance of the debt or a median amount within a specified range of unpaid balances of debt on approximately the same day of the cycle. The day of the cycle need not be the day used in calculating the finance charge, section 28-42-201, Idaho Code, but the specified range shall be the range used for that purpose; or
- (c) The unpaid balances of principal calculated according to the actuarial method.

SECTION 12. That Section 28-49-101, Idaho Code, be, and the same is hereby amended to read as follows:

28-49-101. RELATIONSHIP TO OTHER LAWS. (1) All political subdivisions of this state shall be prohibited from enacting and enforcing ordinances, resolutions and regulations pertaining to the financial or lending activities of persons who:

- (a) Are subject to the jurisdiction of the department of finance of the state of Idaho, including activities subject to this chapter;
- (b) Are subject to the jurisdiction or regulatory supervision of the board of governors of the federal reserve system, the office of the comptroller of the currency, ~~the office of thrift supervision~~, the national credit union administration, the federal deposit insurance corporation, the federal trade commission or the United States department of housing and urban development; or
- (c) Originate, purchase, sell, assign, securitize or service property interests or obligations created by financial transactions or loans made, executed or originated by persons referred to in subsection (1) (a) or (1) (b) of this section or assist or facilitate such transactions.

(2) The requirements of this section shall apply to all ordinances, resolutions and regulations pertaining to financial or lending activities, including any ordinances, resolutions or regulations disqualifying persons from doing business with a political subdivision based upon financial or lending activities or imposing reporting requirements or any other obligations upon persons regarding financial or lending activities.

SECTION 13. That Section 28-51-105, Idaho Code, be, and the same is hereby amended to read as follows:

28-51-105. DISCLOSURE OF BREACH OF SECURITY OF COMPUTERIZED PERSONAL INFORMATION BY AN AGENCY, INDIVIDUAL OR A COMMERCIAL ENTITY. (1) A city, county or state agency, individual or a commercial entity that conducts business in Idaho and that owns or licenses computerized data that includes personal information about a resident of Idaho shall, when it becomes aware of a breach of the security of the system, conduct in good faith a reasonable and prompt investigation to determine the likelihood that personal information has been or will be misused. If the investigation determines that the misuse of information about an Idaho resident has occurred or is reasonably likely to occur, the agency, individual or the commercial entity shall give notice as soon as possible to the affected Idaho resident. Notice must be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement and consistent with any measures necessary to determine the scope of the breach, to identify the individuals affected, and to restore the reasonable integrity of the computerized data system.

When an agency becomes aware of a breach of the security of the system, it shall, within twenty-four (24) hours of such discovery, notify the office of the Idaho attorney general. Nothing contained herein in this section relieves a state agency's responsibility to report a security breach to the office of the chief information officer within the department of administration, pursuant to the ~~information technology resource management council Idaho technology authority policies.~~

Any governmental employee that who intentionally discloses personal information not subject to disclosure otherwise allowed by law, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than two thousand dollars (\$2,000), or by imprisonment in the county jail for a period of not more than one (1) year, or both.

(2) An agency, individual or a commercial entity that maintains computerized data that includes personal information that the agency, individual or the commercial entity does not own or license shall give notice to and cooperate with the owner or licensee of the information of any breach of the security of the system immediately following discovery of a breach, if misuse of personal information about an Idaho resident occurred or is reasonably likely to occur. Cooperation includes sharing with the owner or licensee information relevant to the breach.

(3) Notice required by this section may be delayed if a law enforcement agency advises the agency, individual or commercial entity that the notice will impede a criminal investigation. Notice required by this section must be made in good faith, without unreasonable delay and as soon as possible after the law enforcement agency advises the agency, individual or commercial entity that notification will no longer impede the investigation.

SECTION 14. That Section 30-1-630, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-630. SHAREHOLDERS' PREEMPTIVE RIGHTS. (1) The shareholders of a corporation do not have a preemptive right to acquire the corporation's unissued shares except to the extent the articles of incorporation so provide.

(2) A statement included in the articles of incorporation that "the corporation elects to have preemptive rights," or words of similar import, means that the following principles apply except to the extent the articles of incorporation expressly provide otherwise:

(a) The shareholders of the corporation have a preemptive right, granted on uniform terms and conditions prescribed by the board of directors to provide a fair and reasonable opportunity to exercise the right, to acquire proportional amounts of the corporation's unissued

unissued shares upon the decision of the board of directors to issue them.

(b) A shareholder may waive his preemptive right. A waiver evidenced by a writing is irrevocable even though it is not supported by consideration.

(c) There is no preemptive right with respect to:

(i) Shares issued as compensation to directors, officers, agents or employees of the corporation, its subsidiaries or affiliates;

(ii) Shares issued to satisfy conversion rights or option rights created to provide compensation to directors, officers, agents or employees of the corporation, its subsidiaries or affiliates;

(iii) Shares authorized in articles of incorporation that are issued within six (6) months from the effective date of incorporation;

(iv) Shares sold otherwise than for money.

(d) Holders of shares of any class without general voting rights but with preferential rights to distributions or assets have no preemptive rights with respect to shares of any class.

(e) Holders of shares of any class with general voting rights but without preferential rights to distributions or assets have no preemptive rights with respect to shares of any class with preferential rights to distributions or assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire shares without preferential rights.

(f) Shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of one (1) year after being offered to shareholders at a consideration set by the board of directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of one (1) year is subject to the shareholders' preemptive rights.

(3) For purposes of this section, "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

SECTION 15. That Section 30-1-1302, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1302. RIGHT TO APPRAISAL. (1) A shareholder is entitled to appraisal rights, and to obtain payment of the fair value of that shareholder's shares, in the event of, any of the following corporate actions:

(a) Consummation of a merger to which the corporation is a party:

(i) If shareholder approval is required for the merger by section 30-1-1104, Idaho Code, and the shareholder is entitled to vote on the merger, except that appraisal rights shall not be available to any shareholder of the corporation with respect to shares of any class or series that remain outstanding after consummation of the merger; or

(ii) If the corporation is a subsidiary and the merger is governed by section 30-1-1105, Idaho Code;

(b) Consummation of a share exchange to which the corporation is a party as the corporation whose shares will be acquired, if the shareholder is entitled to vote on the exchange, except that appraisal rights shall not be available to any shareholder of the corporation with respect to any class or series of shares of the corporation that is not exchanged;

(c) Consummation of a disposition of assets pursuant to section 30-1-1202, Idaho Code, if the shareholder is entitled to vote on the disposition;

(d) An amendment of the articles of incorporation with respect to a class or series of shares that reduces the number of shares of a class

or series owned by the shareholder to a fraction of a share if the corporation has the obligation or right to repurchase the fractional share so created; or

(e) Any other amendment to the articles of incorporation, merger, share exchange or disposition of assets to the extent provided by the articles of incorporation, bylaws or a resolution of the board of directors.

(2) Notwithstanding subsection (1) of this section, the availability of appraisal rights under subsections (1) (a), (b), (c) and (d) of this section shall be limited in accordance with the following provisions:

(a) Appraisal rights shall not be available for the holders of shares of any class or series of shares which are:

- (i) Listed on the New York stock exchange or the American stock exchange or designated as a national market system security on an interdealer quotation system by the ~~national association of securities dealers, inc.~~ financial industry regulatory authority; or
- (ii) Not so listed or designated, but have at least two thousand (2,000) shareholders and the outstanding shares of such class or series have a market value of at least twenty million dollars (\$20,000,000), exclusive of the value of such shares held by its subsidiaries, senior executives, directors and beneficial shareholders owning more than ten percent (10%) of such shares.

(b) The applicability of subsection (2) (a) of this section shall be determined as of:

- (i) The record date fixed to determine the shareholders entitled to receive notice of, and vote at, the meeting of shareholders to act upon the corporate action requiring appraisal rights; or
- (ii) The day before the effective date of such corporate action if there is no meeting of shareholders.

(c) Subsection (2) (a) of this section shall not be applicable and appraisal rights shall be available pursuant to subsection (1) of this section for the holders of any class or series of shares who are required by the terms of the corporate action requiring appraisal rights to accept for such shares anything other than cash or shares of any class or any series of shares of any corporation, or any other proprietary interest of any other entity, that satisfies the standards set forth in subsection (2) (a) of this section at the time the corporate action becomes effective.

(d) Subsection (2) (a) of this section shall not be applicable and appraisal rights shall be available pursuant to subsection (1) of this section for the holders of any class or series of shares where:

(i) Any of the shares or assets of the corporation are being acquired or converted, whether by merger, share exchange or otherwise, pursuant to the corporate action by a person, or by an affiliate of a person, who:

(A) Is, or at any time in the one (1) year period immediately preceding approval by the board of directors of the corporate action requiring appraisal rights was, the beneficial owner of twenty percent (20%) or more of the voting power of the corporation, excluding any shares acquired pursuant to an offer for all shares having voting power if such offer was made within one (1) year prior to the corporate action requiring appraisal rights for consideration of the same kind and of a value equal to or less than that paid in connection with the corporate action; or

(B) Directly or indirectly has, or at any time in the one (1) year period immediately preceding approval by the board of directors of the corporation of the corporate action requiring appraisal rights had, the power, contractually or otherwise, to cause the appointment or election of twenty-five

percent (25%) or more of the directors to the board of directors of the corporation; or

(ii) Any of the shares or assets of the corporation are being acquired or converted, whether by merger, share exchange or otherwise, pursuant to such corporate action by a person, or by an affiliate of a person, who is, or at any time in the one (1) year period immediately preceding approval by the board of directors of the corporate action requiring appraisal rights was, a senior executive or director of the corporation or a senior executive of any affiliate thereof, and that senior executive or director will receive, as a result of the corporate action, a financial benefit not generally available to other shareholders as such, other than:

(A) Employment, consulting, retirement or similar benefits established separately and not as part of or in contemplation of the corporate action; or

(B) Employment, consulting, retirement or similar benefits established in contemplation of, or as part of, the corporate action that are not more favorable than those existing before the corporate action or, if more favorable, that have been approved on behalf of the corporation in the same manner as is provided in section 30-1-862, Idaho Code; or

(C) In the case of a director of the corporation who will, in the corporate action, become a director of the acquiring entity in the corporate action or one (1) of its affiliates, rights and benefits as a director that are provided on the same basis as those afforded by the acquiring entity generally to other directors of such entity or such affiliate.

(e) For the purposes of subsection (2) (d) of this section only, the term "beneficial owner" means any person who, directly or indirectly, through any contract, arrangement, or understanding, other than a revocable proxy, has or shares the power to vote, or to direct the voting of, shares, provided that a member of a national securities exchange shall not be deemed to be a beneficial owner of securities held directly or indirectly by it on behalf of another person solely because such member is the record holder of such securities if the member is precluded by the rules of such exchange from voting without instruction on contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted. When two (2) or more persons agree to act together for the purpose of voting their shares of the corporation, each member of the group formed thereby shall be deemed to have acquired beneficial ownership, as of the date of such agreement, of all voting shares of the corporation beneficially owned by any member of the group.

(3) Notwithstanding any other provision of this section, the articles of incorporation as originally filed or any amendment thereto may limit or eliminate appraisal rights for any class or series of preferred shares, but any such limitation or elimination contained in an amendment to the articles of incorporation that limits or eliminates appraisal rights for any of such shares that are outstanding immediately prior to the effective date of such amendment or that the corporation is or may be required to issue or sell thereafter pursuant to any conversion, exchange or other right existing immediately before the effective date of such amendment shall not apply to any corporate action that becomes effective within one (1) year of that date if such action would otherwise afford appraisal rights.

(4) A shareholder entitled to appraisal rights under this part may not challenge a completed corporate action for which appraisal rights are available unless such corporate action:

(a) Was not effectuated in accordance with the applicable provisions of part 10, 11 or 12 of this chapter or the corporation's articles of in-

corporation, bylaws or board of directors' resolution authorizing the corporate action; or

(b) Was procured as a result of fraud or material misrepresentation.

SECTION 16. That Section 30-3-20, Idaho Code, be, and the same is hereby amended to read as follows:

30-3-20. ORGANIZATION OF CORPORATION. (1) After incorporation:

(a) If initial directors are named in the articles of incorporation, the initial directors shall hold an organizational meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws and carrying on any other business brought before the meeting;

(b) If initial directors are not named in the articles, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the incorporators:

(i) To elect directors and complete the organization of the incorporation; or

(ii) To elect a board of directors who shall complete the organization of the corporation.

(2) Action required or permitted by this act to be taken by incorporators at an organizational meeting may be taken without a meeting if the action taken is evidenced by one (1) or more written consents describing the action taken and signed by each incorporator.

(3) An organizational meeting may be held in or out of this state in accordance with section 30-3-7546, Idaho Code.

SECTION 17. That Section 30-1604, Idaho Code, be, and the same is hereby amended to read as follows:

30-1604. INFORMATION STATEMENT. (1) An acquiring person shall deliver to the issuing public corporation at its principal executive office an information statement containing all the following:

(a) The identity of the acquiring person, including the identity of each member of any partnership, limited partnership, syndicate or other group constituting the acquiring person and the identity of each affiliate and associate of the acquiring person, including the identity of each affiliate and associate of each member of such partnership, syndicate or other group;

(b) A reference that the information is made under the provisions of this section;

(c) The number and class or series of shares of the issuing public corporation beneficially owned, directly or indirectly, before the control share acquisition by each of the persons identified pursuant to paragraph (a) of this subsection;

(d) The number and class or series of shares of the issuing public corporation acquired or proposed to be acquired pursuant to the control share acquisition by each of the persons identified pursuant to paragraph (a) of this subsection and specification of which of the following ranges of voting power in the election of directors that, except for the provisions of this chapter, the acquiring person in good faith believes resulted or would result from consummation of control share acquisition:

1. At least twenty per cent percent (20%) but less than thirty-three and one-third per cent percent (33 1/3%);

2. At least thirty-three and one-third per cent percent (33 1/3%) but less than or equal to fifty per cent percent (50%); or

3. Over fifty per cent (50%); and

(e) The terms of the control share acquisition or proposed control share acquisition, including the source of moneys or other consideration and the material terms of the financial arrangements for the control share acquisition, plans or proposals of the acquiring person, including plans or proposals under consideration to enter into a business combination or combinations involving the issuing public corporation, to liquidate or dissolve the issuing public corporation, to sell all or a substantial part of its assets or merge or consolidate it or exchange its shares with any other person, to change the location of its principal place of ~~busines~~ business or its principal executive office or of a material portion of its business activities, to change materially its management or policies of employment, to change materially its charitable or community contributions or its policies, programs or practices relating thereto, to change materially its relationship with suppliers or customers or the communities in which it operates or to make any other material change in its business, corporate structure, management or personnel and such other objective facts as would be substantially likely to affect the decision of a shareholder with respect to voting on the control share ~~acquisition~~ acquisition.

(2) If any material change occurs in the facts set forth in the information statement, including any material increase or decrease in the number of shares of the issuing public corporation acquired or proposed to be acquired by the persons identified pursuant to subsection (1) (a) of this section, the acquiring person shall promptly deliver to the issuing public corporation at its principal executive office an amendment to the information statement containing information relating to such material change. An increase or decrease or proposed increase or decrease equal, in the aggregate for all persons identified pursuant to subsection (1) (a) of this section, to ~~one per-cent~~ percent (1%) or more of the total number of outstanding shares of any class or series of the issuing public corporation is deemed material for purposes of this subsection. An increase or decrease or proposed increase or decrease of less than this amount may be material, depending on the facts and circumstances.

SECTION 18. That Section 30-1705, Idaho Code, be, and the same is hereby amended to read as follows:

30-1705. REQUIREMENTS. Except as provided in sections 30-1703 and 30-1704, Idaho Code, and notwithstanding any other provisions to the contrary in this title, an issuing public corporation may not engage at any time in any business combination or vote, consent or otherwise act to authorize a subsidiary of the issuing public corporation to engage in any business combination with respect to, proposed by or on behalf of or pursuant to any agreement, arrangement or understanding, whether or not in writing, with an interested shareholder of the issuing public corporation or any affiliate or associate of the interested shareholder other than a business combination meeting all the requirements of this chapter, the articles of the issuing public corporation and the requirements specified in any of the following:

(1) A business combination approved by the board of the issuing public corporation before the interested shareholder's share acquisition date, or as to which the acquisition of shares made by the interested shareholder on the interested shareholder's share acquisition date had been approved by the board of the issuing public corporation before the interested shareholder's share acquisition date.

(2) A business combination approved by the affirmative vote of the holders of sixty-six and two-thirds ~~per-cent~~ percent (66 2/3%) of the outstanding shares entitled to vote not beneficially owned by the interested shareholder proposing the business combination or any affiliate or associate of the interested shareholder proposing the business combination at

a meeting called for that purpose no earlier than three (3) years after the interested shareholder's share acquisition date.

(3) A business combination, with respect to which the consummation date is no earlier than three (3) years after the interested shareholder's share acquisition date, that meets all the following conditions:

(a) The aggregate amount of the cash and the market value as of the consummation date of consideration other than cash to be received per share by holders of outstanding common shares of the issuing public corporation in the business combination is at least equal to the higher of the following:

1. The highest per share price, including any brokerage commissions, transfer taxes, and soliciting dealers' fees, paid by the interested shareholder, at a time when the interested shareholder was the beneficial owner, directly or indirectly, of five ~~per cent~~ percent (5%) or more of the outstanding shares entitled to vote of the issuing public corporation, for any common shares of the same class or series acquired by it within the three (3) year period immediately before the announcement date with respect to the business combination or within the three (3) year period immediately before, or in, the transaction in which the interested shareholder became an interested shareholder, whichever is higher, plus, in either case, interest compounded annually from the earliest date on which the highest per share acquisition price was paid through the consummation date at the rate for one (1) year United States treasury obligations from time to time in effect less the aggregate amount of cash dividends paid, and the market value of any dividends paid other than in cash, per common share since the earliest date, up to the amount of the interest; and
2. The market value per common share on the announcement date with respect to the business combination or on the interested shareholder's share acquisition date, whichever is higher, plus interest compounded annually from that date through the consummation date at the rate for one (1) year United States treasury obligations from time to time in effect less the aggregate amount of any cash dividends paid and the market value of any dividends paid other than in cash, per common share since that date, up to the amount of the interest.

(b) The aggregate amount of the cash and the market value as of the consummation date of consideration other than cash to be received per share by holders of outstanding shares of any class or series of shares, other than common shares, of the issuing public corporation in the business combination is at least equal to the highest of the following, whether or not the interested shareholder has previously acquired any shares of the class or series:

1. The highest per share price, including any brokerage ~~commissions~~ commissions, transfer taxes, and soliciting dealers' fees, paid by the interested shareholder, at a time when the interested shareholder was the beneficial owner, directly or indirectly, of five ~~per cent~~ percent (5%) or more of the outstanding shares entitled to vote of the issuing public corporation, for any shares of the class or series acquired by it within the three (3) year period immediately before the announcement date with respect to the business combination or within the three (3) year period immediately before, or in, the transaction in which the interested shareholder became an interested shareholder, whichever is higher, plus, in either case, interest compounded annually from the earliest date on which the highest per share acquisition price was paid through the consummation date at the rate for one (1) year United States treasury obligations from time to time in effect

less the aggregate amount of any cash dividends paid and the market value of any dividends paid other than in cash, per share of the class or series since such earliest date, up to the amount of the interest;

2. The highest preferential amount per share to which the holders of shares of the class or series are entitled in the event of any voluntary liquidation, dissolution or winding up of the issuing public corporation, plus the aggregate amount of any unpaid dividends declared or due as to which the holders are entitled entitled before payment of dividends on some other class or series of shares unless the aggregate amount of the dividends is included in the preferential amount; and

3. The market value per share of the class or series on the announcement date with respect to the business combination or on the interested shareholder's share acquisition date, whichever is higher, plus interest compounded annually from that date through the consummation date at the rate for one (1) year United States treasury obligations from time to time in effect less the aggregate amount of any cash dividends paid and the market value of any dividends paid other than in cash, per share of the class or series since that date, up to the amount of the interest.

(c) The consideration to be received by holders of a particular class or series of outstanding shares, including common shares, of the issuing public corporation in the business combination is in cash or in the same form as the interested shareholder has used to acquire the largest number of shares of the class or series of shares previously acquired by it and the consideration is distributed promptly.

(d) The holders of all outstanding shares of the issuing public corporation not beneficially owned by the interested shareholder immediately before the consummation date with respect to the business combination are entitled to receive in the business combination cash or other consideration for the shares in compliance with paragraphs (a), (b) and (c) of this subsection.

(e) After the interested shareholder's share acquisition date and before the consummation date with respect to the business combination, the interested shareholder has not become the beneficial owner of any additional shares entitled to vote of the issuing public corporation except:

1. As part of the transaction that resulted in the interested shareholder becoming an interested shareholder;
2. By virtue of proportionate share splits, share dividends or other distributions of shares in respect of shares not constituting a business combination;
3. Through a business combination meeting all of the conditions of section 30-1704, Idaho Code, and this subsection; and
4. Through purchase by the interested shareholder at any price that, if the price had been paid in an otherwise permissible business combination the announcement date and consummation date of which were the date of the purchase, would have satisfied the requirements of paragraphs (a), (b) and (c) of this subsection.

SECTION 19. That Section 31-3403, Idaho Code, be, and the same is hereby amended to read as follows:

31-3403. DEFINITIONS. As used in this chapter:

(1) "Adult household member" means any individual eighteen (18) years of age and over who resides in the household.

(2) "Anticipated future income" means a reasonable expectation of income to the household based on an analysis of past income, future income,

current income, experience, skills, education, inheritance and possible assets from any source.

(3) "Applicant" means the individual and all others in the household who are requesting nonmedical assistance, and who submits a county application.

(4) "Assets" means property rights including, but not limited to, personal, real, tangible and intangible property.

(5) "Authorized representative" means the applicant's guardian or appointed attorney-in-fact.

(6) "Board" means a board of county commissioners.

(7) "Clerk" means the clerk of a board of county commissioners or his designee.

(8) "Emergency" means any circumstance demanding immediate action.

(9) "Household" means a collective body of persons consisting of spouses or parents and their children who reside in the same residence; or all other persons who by choice or necessity are mutually dependent upon each other for basic necessities and who reside in the same residence.

(10) "Indigent" means any applicant who does not have resources available from whatever source which shall be sufficient to enable the applicant to provide nonmedical assistance or a portion thereof.

(11) "Information release" means the document authorizing release of confidential information.

(12) "Investigation" means a detailed examination of the application and information required from the applicant and others to verify eligibility.

(13) "Nonmedical assistance" means reasonable costs for assistance, which includes food and shelter, and other such necessary services determined by the board by resolution.

(14) "Obligated county for payment" means the county wherein residency has been established.

(15) "Recipient" means the individual(s) determined eligible for county assistance.

(16) "Repayment" means the authority of the board of county commissioners to require indigent person(s) to repay the county for assistance when investigation of their application determines their ability to do so.

(17) "Resident" means a person with a home, house, place of abode, place of habitation, dwelling or place where one actually lived for a consecutive period of thirty (30) days or more prior to the date of application.

(18) "Resource" means assets, whether tangible or intangible, real or personal, liquid or nonliquid, including, but not limited to, gifts, bequests, grants, all forms of public or private assistance, crime victim's victims compensation, worker's compensation, veteran's benefits, medicaid, medicare and any other property from any source for which an applicant and/or an obligated person may be eligible or in which he or she may have an interest. For purposes of determining approval for nonmedical indigency only, resources shall not include the value of the homestead of the applicant or obligated person's residence, a burial plot, exemptions for personal property allowed in section 11-605(1) through (3), Idaho Code, and additional exemptions allowed by county resolution.

SECTION 20. That Section 31-3505, Idaho Code, be, and the same is hereby amended to read as follows:

31-3505. TIME AND MANNER OF FILING APPLICATIONS FOR FINANCIAL ASSISTANCE. Applications for financial assistance shall be filed according to the following time limits. Filing is complete upon receipt by the clerk or the department.

(1) A completed application for nonemergency necessary medical services shall be filed with the clerk ten (10) days prior to receiving services from the provider or the hospital.

(2) A completed application for emergency necessary medical services shall be filed with the clerk any time within thirty-one (31) days beginning with the first day of the provision of necessary medical services from the provider, except as provided in subsection (3) of this section.

(3) In the case of hospitalization, a completed application for emergency necessary medical services shall be filed with the department any time within thirty-one (31) days of the date of admission.

(4) Requests for additional treatment related to an original diagnosis in accordance with a preapproved treatment plan shall be filed ten (10) days prior to receiving services.

(5) A delayed application for necessary medical services may be filed up to one hundred eighty (180) days beginning with the first day of the provision of necessary medical services provided that:

(a) Written documentation is included with the application or no later than forty-five (45) days after an application has been filed showing that a bona fide application or claim has been filed for social security disability insurance, supplemental security income, third party insurance, medicaid, medicare, crime victim's victims compensation, and/or worker's compensation. A bona fide application means that:

(i) The application was timely filed within the appropriate agency's application or claim time period; and

(ii) Given the circumstances of the patient and/or obligated persons, the patient and/or obligated persons, and given the information available at the time the application or claim for other resources is filed, would reasonably be expected to meet the eligibility criteria for such resources; and

(iii) The application was filed with the appropriate agency in such a time and manner that, if approved, it would provide for payment coverage of the bills included in the county application; and

(iv) In the discretion of the county commissioners, bills on a delayed application which would not have been covered by a successful application or timely claim to the other resource(s) may be denied by the county commissioners as untimely; and

(v) In the event an application is filed for supplemental security income, an Idaho medicaid application must also have been filed within the department of health and welfare's application or claim time period to provide payment coverage of eligible bills included in the county application.

(b) Failure by the patient and/or obligated persons to complete the application process described in this section, up to and including any reasonable appeal of any denial of benefits, with the applicable program noted in paragraph (a) of this subsection, shall result in denial of the application.

(6) No application for financial assistance under the county medically indigent program or the catastrophic health care cost program shall be approved by the county commissioners or the board unless the provider or the hospital completes the application process and complies with the time limits prescribed by this chapter.

(7) Any application or request which fails to meet the provisions of this section, and/or other provisions of this chapter, shall be denied.

(8) In the event that a county determines that a different county is obligated, such county shall notify the applicant or third party applicant of the denial and shall also notify the county it believes to be the obligated county and provide the basis for the determination. An application may

be filed by the applicant or third party applicant in the indicated county within thirty (30) days of the date of the initial county denial.

SECTION 21. That Section 31-4819, Idaho Code, be, and the same is hereby amended to read as follows:

31-4819. ENHANCED EMERGENCY COMMUNICATIONS GRANT FEE. (1) ~~Effective from~~ On and after July 1, 2013, there shall be an enhanced emergency communications grant fee established by virtue of authority granted by this chapter. The fee shall be twenty-five cents (25¢) per month per access or interconnected VoIP service line.

(a) Such fee shall be authorized by resolution of a majority vote of the board of commissioners of a countywide system or by the governing board of a 911 service area.

(b) Such fee shall be remitted to the Idaho emergency communications fund provided in section 31-4818(1), Idaho Code, on a quarterly basis by county, city or consolidated emergency communications systems. Such fee shall be dedicated for and shall be authorized for disbursement as grants to eligible entities that are operating consolidated emergency communications systems for use to achieve the purposes of this chapter.

(e2) The commission, on an annual basis, shall prepare a budget allocating the grant funds available to eligible entities and the portion of the funds necessary for the continuous operation of the commission to achieve the purposes of this chapter.

(d3) To be eligible for grant funds under this chapter, a county or 911 service area must be collecting the emergency communications fee in accordance with section 31-4804, Idaho Code, in the full amount authorized and must also be collecting the enhanced emergency communications grant fee in the full amount authorized in this subsection.

(e4) If a county or 911 service area has authorized the collection of the enhanced emergency communications grant fee pursuant to this chapter, such county or 911 service area shall retain the full amount of the emergency communications fee that was set by the board of commissioners or governing board pursuant to section 31-4803, Idaho Code. The county or 911 service area is then also exempt from remitting to the Idaho emergency communications commission one percent (1%) of the total emergency communications fee received by the county or 911 service area as required in section 31-4818(3), Idaho Code. The remaining funds from the enhanced emergency communications grant fee collected shall then be remitted by the county or 911 service area to the Idaho emergency communications commission.

SECTION 22. That Section 33-1602, Idaho Code, be, and the same is hereby amended to read as follows:

33-1602. UNITED STATES CONSTITUTION -- NATIONAL FLAG AND COLORS -- NATIONAL ANTHEM -- "AMERICA" -- CITIZENSHIP. (1) Instruction in the Constitution of the United States shall be given in all elementary and secondary schools. The state board of education shall adopt such materials as may be deemed necessary for said purpose, and shall also determine the grades in which such instruction shall be given.

(2) Instruction in the proper use, display and history of and respect for the American flag and the national colors shall be given in all elementary and secondary schools. Such instruction shall include the pledge of allegiance to the flag, the words and music of the national anthem, and of "America."

(3) Every school board of trustees shall cause the United States flag to be displayed in every classroom during the school hours of each school day.

(4) Every public school shall offer the pledge of allegiance or the national anthem in grades one (1) through twelve (12) at the beginning of each school day.

(5) No pupil shall be compelled, against the pupil's objections or those of the pupil's parent or guardian, to recite the pledge of allegiance or to sing the national anthem.

(36) Instruction in citizenship shall be given in all elementary and secondary schools. Citizenship instruction shall include lessons on the role of a citizen in a constitutional republic, how laws are made, how officials are elected, and the importance of voting and of participating in government. Such instruction shall also include the importance of respecting and obeying statutes which are validly and lawfully enacted by the Idaho legislature and the congress of the United States.

SECTION 23. That Section 38-1019, Idaho Code, be, and the same is hereby amended to read as follows:

38-1019. WARRANTS. The board of commissioners may issue warrants of such district in payment of claims of indebtedness against such district. Such warrants shall be in form and substance the same as county warrants, or as near the same as may be practicable, and shall draw interest at from the date of issue at a rate established by the board of commissioners. They must be signed by the chairman and attested by the secretary of said board: provided, that no warrant shall be issued by said board of commissioners in payment of any indebtedness of such district for less than the face or par value.

SECTION 24. That Section 40-312, Idaho Code, be, and the same is hereby amended to read as follows:

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 section 131, title 23, United States Code, 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 section 131, title 23, United States Code 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.

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

SECTION 25. That Section 40-317, Idaho Code, be, and the same is hereby amended to read as follows:

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, ~~chapter 30~~, 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 ~~is 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 nonresident 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.

SECTION 26. That Section 41-716, Idaho Code, be, and the same is hereby amended to read as follows:

41-716. INVESTMENT TRUST SECURITIES. (1) An insurer may invest in the securities of any open-end management type investment company or investment trust registered with the federal securities and exchange commission under the ~~I~~investment ~~C~~company ~~A~~act of 1940 as from time to time amended, if such investment company or trust has been organized for not less than three (3) years and has assets of not less than twenty-five million dollars (\$25,000,000) as at the date of investment by the insurer. The aggregate amount invested under this section shall not exceed twenty-five percent (25%) of the insurer's assets with limitations of five percent (5%) of the insurer's assets in any one (1) fund and ten percent (10%) of the insurer's assets in any one (1) fund family.

(2) For the purpose of determining the investment limitation imposed by this section ~~41-716, Idaho Code~~, the insurer shall value securities subject to the provisions of this section ~~41-716, Idaho Code~~, at the cost of the security or at the market value of the security, whichever is lower.

SECTION 27. That Section 41-3813, Idaho Code, be, and the same is hereby amended to read as follows:

41-3813. MANAGEMENT OF DOMESTIC INSURERS SUBJECT TO REGISTRATION. (1) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer shall not thereby be relieved of any obligation or liability to which they would otherwise be subject by law, and the

insurer shall be managed so as to assure its separate operating identity consistent with this chapter.

(2) Nothing in this section shall preclude a domestic insurer from having or sharing a common management or cooperative or joint use of personnel, property or services with one (1) or more other persons under arrangements meeting the standards of section 41-3810(1), Idaho Code.

(3) Not less than one-third (1/3) of the directors of a domestic insurer, and not less than one-third (1/3) of the members of each committee of the board of directors of any domestic insurer, shall be persons who are not officers or employees of the insurer or of any entity controlling, controlled by or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or entity. At least one (1) person must be included in any quorum for the transaction of business at any meeting of the board of directors or any committee thereof.

(4) The board of directors of a domestic insurer shall establish one (1) or more committees comprised solely of directors who are not officers or employees of the insurer or of any entity controlling, controlled by or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or any such entity. The committee or committees shall have responsibility for nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers deemed to be principal officers of the insurer and recommending to the board of directors the selection and compensation of the principal officers.

(5) The provisions of subsections (3) and (4) of this section shall not apply to a domestic insurer if the person controlling the insurer, such as an insurer, a mutual insurance holding company or a publicly held corporation, has a board of directors and committees thereof that meet the requirements of subsections (3) and (4) of this section with respect to such controlling entity.

(6) An insurer may make application to the director for a waiver from the requirements of this section, if the insurer's annual direct written and assumed premium, excluding premiums reinsured with the federal crop insurance corporation and ~~federal~~ federal national flood insurance program, is less than three hundred million dollars (\$300,000,000). An insurer may also make application to the director for a waiver from the requirements of this section based upon unique circumstances. The director may consider various factors including, but not limited to, the type of business entity, volume of business written, availability of qualified board members or the ownership or organizational structure of the entity.

SECTION 28. That Section 42-1736, Idaho Code, be, and the same is hereby repealed.

SECTION 29. That Section 49-244, Idaho Code, be, and the same is hereby amended to read as follows:

49-244. IDAHO RESIDENCY AND DOMICILE REQUIREMENTS -- INDIAN RESERVATIONS. Notwithstanding the residency and domicile requirements provided for in chapters 1, 4 and 5 of ~~this title~~ 49, Idaho Code, enrolled tribal members, residing and domiciled within the boundaries of a federally recognized Indian reservation, which boundaries are located in whole or in part within this state, shall be considered Idaho residents for purposes of vehicle registration and vehicle titling in Idaho.

SECTION 30. That Section 49-420J, Idaho Code, be, and the same is hereby amended to read as follows:

49-420J. SELWAY-BITTERROOT WILDERNESS PLATES. (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, may apply for and upon department approval receive special Idaho Selway-Bitterroot wilderness license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Selway-Bitterroot wilderness plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates and twenty-five dollars (\$25.00) upon each succeeding annual registration. Thirteen dollars (\$13.00) of the initial fee and thirteen dollars (\$13.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-two dollars (\$22.00) of each initial fee and twelve dollars (\$12.00) of each renewal fee shall be transferred by the state treasurer to the Selway-Bitterroot Foundation, and shall be used by the foundation for the purpose of assisting in the stewardship of the Idaho Selway-Bitterroot wilderness and surrounding wildlands of north central Idaho.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The license plate design shall be acceptable to the Selway-Bitterroot Foundation and shall be approved by the department and shall utilize a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Selway-Bitterroot Foundation.

(5) Sample Idaho Selway-Bitterroot wilderness license plates may be purchased for a fee of thirty dollars (\$30.00), thirteen dollars (\$13.00) of which shall be deposited in the state highway account and seventeen dollars (\$17.00) of which shall be transferred to the Selway-Bitterroot Foundation.

SECTION 31. That the Heading for Chapter 19, Title 49, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 19

MULTISTATE HIGHWAY WESTERN STATES TRANSPORTATION AGREEMENT

SECTION 32. That Section 54-1218, Idaho Code, be, and the same is hereby amended to read as follows:

54-1218. PUBLIC WORKS. (1) It shall be unlawful for this state, or for any county, city, school district, irrigation district, drainage district, highway district, or other subdivision of the state, having power to levy taxes or assessments against property situated therein, to engage in the construction of any public works when the public health or safety is involved unless the plans and specifications and estimates have been prepared by, and the construction reviewed by, a professional engineer.

(2) The provisions of this section shall not apply to public construction, reconstruction, maintenance and repair work that is insignificant, that is projects of less than ten thousand dollars (\$10,000) in total cost, performed by employees of the public agency and performed in accordance with standards for such work that have been certified by a professional engineer and duly adopted by the public agency's governing body including, but not limited to, the Idaho standards for public works construction and

any supplements thereto, and only if a professional engineer determines that such public construction, reconstruction, maintenance and repair work does not represent a material risk to public health or safety.

SECTION 33. That Section 54-2706, Idaho Code, be, and the same is hereby amended to read as follows:

54-2706. PRESERVING EVIDENCE OF METAL THEFT. ~~(1)~~ Following notification, either verbally or in writing, from a commissioned law enforcement officer of the state or any of its political subdivisions, that an item of nonferrous metal property, stainless steel, or commercial metal property has been reported as stolen, a scrap metal business shall hold that property intact and safe from alteration, damage, or commingling, and shall place an identifying tag or other suitable identification upon the property. The scrap metal business shall hold the property for a period of time as directed by the applicable law enforcement agency up to a maximum of ten (10) business days.

SECTION 34. That Section 58-310, Idaho Code, be, and the same is hereby amended to read as follows:

58-310. TWO OR MORE APPLICANTS FOR SAME LAND -- AUCTION OF LEASE. Except as otherwise authorized in ~~sections 58-310A and 58-310B, Idaho Code:~~

(1) When two (2) or more persons apply to lease the same land, the director of the department of lands, or his agent, shall, at a stated time, and at such place as he may designate, auction off and lease the land to the applicant who will pay the highest premium bid therefor, the annual rental to be established by the state board of land commissioners.

(2) The director shall give notice by letter at least fourteen (14) days prior to the date of such auction, which notice shall be sent in the course of regular mail, to each of the applicants, notifying them of the time and place such auction is to be held. The notice shall be sent to the name and address exactly as it is given in the application.

(3) If any applicants fail to appear in person or by proxy at the time and place so designated in said notice, the director may proceed to auction and lease any part or all of the lands applied for.

(4) The state board of land commissioners shall have power to reject any and all bids made at such auction sales, when in their judgment there has been fraud or collusion, or for any other reason, which in the judgment of said state board of land commissioners justified the rejection of said bids.

(5) The challenger of the current lease shall be required to provide payment of one (1) year's rental on the lease payable at the time of application to lease. If the amount of the annual rental bid be not paid forthwith by the successful bidder, together with the expense of such sale, if the state board of land commissioners shall require the same to be paid as hereinbefore provided, or if for any reason the successful bidder does not accept the lease on the terms offered, the lease may be immediately reoffered in the same manner at public auction, without further notice.

(6) Only those persons who have filed applications in the manner and at the time provided for by statute or rule shall be permitted to bid at any such auction for the lease of state lands.

SECTION 35. That Sections 58-310A and 58-310B, Idaho Code, be, and the same are hereby repealed.

SECTION 36. That Section 67-3002, Idaho Code, be, and the same is hereby amended to read as follows:

67-3002. POSITIVE IDENTIFICATION -- FINGERPRINTS REQUIRED. To ensure positive identification and system integrity, criminal history records

shall be supported by fingerprints, which may be maintained manually, electronically or on optical disk. The records shall be linked to an automated fingerprint identification system. For the purpose of including prescribed information categories, the system may be linked with databases maintained by other state agencies. Whenever possible, the reporting of information by criminal justice agencies relating to the categories identified in section 67-3001(4), Idaho Code, shall be conducted electronically or by magnetic medium. Any technology used in this process will conform to the standards, guidelines and conventions established by the ~~information-technology resource management council~~ Idaho technology authority.

Approved March 17, 2014

CHAPTER 98
(S.B. No. 1277, As Amended)

AN ACT

RELATING TO THE EXCHANGE OF STATE LAND; AMENDING SECTION 58-138, IDAHO CODE, TO REMOVE CERTAIN PROVISIONS RELATING TO THE EXCHANGE OF STATE LANDS, TO PROVIDE AN EXCEPTION TO EXCHANGE PROVISIONS FOR CERTAIN LANDS, TO PROVIDE FOR THE EXCHANGE OF LANDS KNOWN AS "COTTAGE SITES," TO CLARIFY WHAT THE EXCHANGE OF STATE LANDS MEANS, TO PROVIDE THAT CERTAIN PARTIES SHALL NOT BE PROHIBITED FROM PURCHASING OR SELLING ASSETS RELATED TO ACCOMPLISHING AN EXCHANGE TRANSACTION BEFORE, SIMULTANEOUSLY OR AFTER THE TRANSACTION, TO PROVIDE A CONDITION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 58-138, Idaho Code, be, and the same is hereby amended to read as follows:

58-138. EXCHANGE OF STATE LAND. (1) The state board of land commissioners may at its discretion, when in the state's best interest, exchange, and do all things necessary to exchange fee simple title to include full surface and mineral rights, to any of the state lands now or hereafter held and owned by this state for ~~similar~~ lands of equal value, public or private, ~~so as to consolidate state lands or aid the state in the control and management or use of state lands~~ excepting lands that have as their primary value buildings or other structures, unless said buildings or other structures are continually used by a public entity for a public purpose. Land that the state owns known as "cottage sites" can be exchanged for lands of equal value, public or private. As used in this section, an exchange of state lands means a transaction in which the state conveys the land to another party or parties pursuant to an agreement that predates the exchange, in which transaction a party conveying land to the state may be different from a party to whom the state conveyed land. The parties dealing with the state in such an exchange transaction shall not be prohibited from purchasing or selling assets related to accomplishing the transaction before, simultaneously or after said transaction, provided that all such prior and simultaneous purchases and sales are expressly provided for in the exchange agreement.

(2) Provided further the state board of land commissioners may, in its discretion, hereafter grant and receive less than fee simple title, and grant or allow such reservations, restrictions, easements or such other impairment to title as may be in the state's best interest.

(3) No exchanges shall be made involving leased lands except upon the written agreement of the lessee.

(4) Subject to the approval of the state board of land commissioners, the first lease on lands acquired through land exchange and in lieu selec-

tions shall be offered to the present user, lessee, or permittee of the land, provided that the present user agrees in writing to enter into a contractual management program through which the resource values of the land may be enhanced or improved for the purpose of increasing the income to the endowed institutions.

Approved March 17, 2014

CHAPTER 99
(S.B. No. 1341)

AN ACT

RELATING TO THE IDAHO CRIMINAL GANG ENFORCEMENT ACT; AMENDING SECTION 18-8503, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE IMPOSITION OF A CERTAIN EXTENDED PENALTY.

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

SECTION 1. That Section 18-8503, Idaho Code, be, and the same is hereby amended to read as follows:

18-8503. PUNISHMENT. (1) An adult, or any juvenile waived to adult court pursuant to section 20-508 or 20-509, Idaho Code, who is convicted of any felony or misdemeanor enumerated in section 18-8502(3), Idaho Code, that is knowingly committed for the benefit or at the direction of, or in association with, any criminal gang or criminal gang member, in addition to the punishment provided for the commission of the underlying offense, shall be punished as follows:

(a) Any adult, or any juvenile waived to adult court pursuant to section 20-508 or 20-509, Idaho Code, who is convicted of a misdemeanor shall be punished by an additional term of imprisonment in the county jail for not more than one (1) year.

(b) Any adult, or any juvenile waived to adult court pursuant to section 20-508 or 20-509, Idaho Code, who is convicted of a felony shall be punished by an extended term of not less than two (2) years and not more than five (5) years in prison.

(c) If the underlying offense described in section 18-8502(3), Idaho Code, is a felony and committed on the grounds of, or within one thousand (1,000) feet of, a public or private elementary, secondary or vocational school during hours when the facility is open for classes or school-related programs or when minors are using the facility, the extended term shall be not less than two (2) years and not more than five (5) years in prison.

(2) This section does not create a separate offense but provides an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed facts.

(3) The court shall not impose an extended penalty pursuant to this section unless:

(a) The indictment, ~~or~~ information, complaint or petition charging the defendant with the primary offense alleges that the primary offense was committed knowingly for the benefit or at the direction of, or in association with, a criminal gang or criminal gang member with the specific intent to promote, further or assist the activities of the criminal gang; and

(b) The trier of fact finds the allegation to be true beyond a reasonable doubt.

(4) Except in a case of a juvenile who has been waived to adult court pursuant to section 20-508 or 20-509, Idaho Code, the imposition or execution of the sentences provided in this section may not be suspended.

(5) An extended sentence provided in this section shall run consecutively to the sentence provided for the underlying offense.

(6) Unless waived to adult court pursuant to section 20-508 or 20-509, Idaho Code, a juvenile who is adjudicated of any felony or misdemeanor enumerated in section 18-8502(3), Idaho Code, that is knowingly committed for the benefit or at the direction of, or in association with, any criminal gang or criminal gang member shall be sentenced according to the provisions of section 20-520, Idaho Code.

Approved March 17, 2014

CHAPTER 100
(S.B. No. 1364)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE CHILD WELFARE PROGRAM AND FOSTER AND ASSISTANCE PAYMENTS PROGRAM FOR FISCAL YEAR 2014; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE CHILD WELFARE PROGRAM AND FOSTER AND ASSISTANCE PAYMENTS PROGRAM FOR FISCAL YEAR 2014; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE ENHANCED MEDICAID PLAN PROGRAM FOR FISCAL YEAR 2014; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE ENHANCED MEDICAID PLAN PROGRAM FOR FISCAL YEAR 2014; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE STATE HOSPITAL SOUTH PROGRAM FOR FISCAL YEAR 2014; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE PHYSICAL HEALTH SERVICES PROGRAM FOR FISCAL YEAR 2014; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE SERVICE INTEGRATION PROGRAM FOR FISCAL YEAR 2014; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE SELF-RELIANCE OPERATIONS PROGRAM FOR FISCAL YEAR 2014; PROVIDING LEGISLATIVE INTENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 226, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated to the Department of Health and Welfare, the following amounts to be expended for the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. CHILD WELFARE:				
FROM:				
Cooperative Welfare (General)				
Fund	\$961,900	\$437,200		\$1,399,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
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B. FOSTER & ASSISTANCE PAYMENTS:

FROM:

Cooperative Welfare (Federal)

Fund	<u>0</u>	<u>0</u>	<u>1,399,100</u>	<u>1,399,100</u>
TOTAL	\$961,900	\$437,200	\$1,399,100	\$2,798,200

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Health and Welfare in Section 1, Chapter 226, Laws of 2013, is hereby reduced by the following amounts, according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
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A. CHILD WELFARE:

FROM:

Cooperative Welfare (Federal)

Fund	\$961,900	\$437,200		\$1,399,100
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B. FOSTER & ASSISTANCE PAYMENTS:

FROM:

Cooperative Welfare (General)

Fund	<u>0</u>	<u>0</u>	<u>1,399,100</u>	<u>1,399,100</u>
TOTAL	\$961,900	\$437,200	\$1,399,100	\$2,798,200

SECTION 3. In addition to the appropriation made in Section 1, Chapter 323, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated \$11,516,200 from the Cooperative Welfare (Dedicated) Fund to the Department of Health and Welfare for the Enhanced Medicaid Plan Program, to be expended for trustee and benefit payments, for the period July 1, 2013, through June 30, 2014.

SECTION 4. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Health and Welfare for the Enhanced Medicaid Plan Program in Section 1, Chapter 323, Laws of 2013, is hereby reduced by the following amounts for trustee and benefit payments, from the listed funds, for the period July 1, 2013, through June 30, 2014:

FROM:

Cooperative Welfare (General)

Fund				\$2,022,900
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Cooperative Welfare (Federal)

Fund				<u>9,493,300</u>
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TOTAL				\$11,516,200
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SECTION 5. In addition to the appropriation made in Section 1, Chapter 229, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated to the Department of Health and Welfare for the State Hospital South Program, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
Cooperative Welfare (Dedicated)			
Fund	\$118,700	\$639,900	\$758,600
Cooperative Welfare (Federal)			
Fund	<u>28,100</u>	<u>0</u>	<u>28,100</u>
TOTAL	\$146,800	\$639,900	\$786,700

SECTION 6. In addition to the appropriation made in Section 1, Chapter 303, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated to the Department of Health and Welfare for the Physical Health Services Program, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
Cooperative Welfare (General)			
Fund		\$546,000	\$546,000
Idaho Immunization Dedicated Vaccine			
Fund		1,150,000	1,150,000
Cooperative Welfare (Federal)			
Fund	<u>\$716,300</u>	<u>0</u>	<u>716,300</u>
TOTAL	\$716,300	\$1,696,000	\$2,412,300

SECTION 7. In addition to the appropriation made in Section 1, Chapter 302, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated \$530,300 from the Cooperative Welfare (Federal) Fund to the Department of Health and Welfare for the Service Integration Program, to be expended for personnel costs, for the period July 1, 2013, through June 30, 2014.

SECTION 8. In addition to the appropriation made in Section 1, Chapter 302, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated \$2,263,400 from the Cooperative Welfare (Federal) Fund to the Department of Health and Welfare for the Self-Reliance Operations Program, to be expended for personnel costs, for the period July 1, 2013, through June 30, 2014, for the purpose of determining Medicaid eligibility and is subject to intent language found in Section 10, Chapter 302, Laws of 2013.

SECTION 9. LEGISLATIVE INTENT. It is the intent of the Legislature that moneys appropriated from the General Fund to the Department of Health and

Welfare for the Physical Health Services Program in Section 6 are to be used solely for the purchase of TRICARE vaccines. Further, any moneys not expended for TRICARE vaccines are to be reverted back to the General Fund at the close of the fiscal year or as soon thereafter as is practicable.

SECTION 10. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 17, 2014

CHAPTER 101
(H.B. No. 356)

AN ACT

RELATING TO PODIATRISTS; AMENDING SECTION 54-604, IDAHO CODE, TO REMOVE OBSOLETE PROVISIONS AND TO REVISE PROVISIONS RELATING TO THE STATE BOARD OF PODIATRY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-605, IDAHO CODE, TO REVISE PROVISIONS AND TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO THE POWERS AND DUTIES OF THE STATE BOARD OF PODIATRY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-606, IDAHO CODE, TO REVISE PROVISIONS RELATING TO AN EXAMINATION FOR A PODIATRIST LICENSE AND RELATED FEE, TO REMOVE PROVISIONS RELATING TO REEXAMINATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-607, IDAHO CODE, TO REVISE PROVISIONS RELATING TO AN ORIGINAL LICENSE FEE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-608, IDAHO CODE, TO PROVIDE AN ADDITIONAL GROUND FOR DISCIPLINE OF A LICENSE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 54-610, IDAHO CODE, TO REVISE A CATCHLINE AND TO REMOVE CERTAIN PROVISIONS RELATING TO PROCEEDINGS FOR SUSPENSION, REVOCATION OR OTHER DISCIPLINE OF A LICENSE.

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

SECTION 1. That Section 54-604, Idaho Code, be, and the same is hereby amended to read as follows:

54-604. ESTABLISHMENT OF STATE BOARD OF PODIATRY. (1) There is hereby established in the department of self-governing agencies a state board of podiatry to be composed of five (5) members to be appointed by the governor in the manner hereinafter set forth. Four (4) ~~of said~~ members shall be podiatrists, duly licensed under the laws of the state of Idaho, and who shall have been continuously engaged in the practice of podiatry for a period of not less than five (5) years prior to his appointment. The fifth member of the board shall be a layman, a resident of the state of Idaho for a period of not less than five (5) years prior to his appointment. ~~With reference to the first board, the four (4) podiatrists shall be appointed for terms of one (1), two (2), three (3) and four (4) years, respectively. The lay board member shall be appointed for a term of three (3) years. Thereafter, a~~ All appointments to the board shall be made for terms of four (4) years. Vacancies upon the board, occurring for any reason, shall be filled by the governor. The governor in making appointments shall give consideration to but shall not be bound by the recommendations received from the Idaho Podiatric Medical Association.

(2) ~~Within thirty (30) days from the appointment of the board by the governor, the board shall organize itself, select a chairman, and a vice chairman and secretary annually. The chairman and the secretary shall be a podiatrists. The board shall meet at least annually for the purpose of~~

~~conducting examinations and transacting any other business which may lawfully come before it. The board may meet in special session at the call of the chairman, or at the call of not less than two-thirds (2/3) of the membership of the board. The members of the board shall each be compensated as provided by section 59-509(m), Idaho Code.~~

(3) Examinations of applicants may be conducted by the board, or by designated representatives of the board.

(4) A quorum will consist of at least three (3) members of the board. The chairman, or person acting as such, will vote only in the case of a tie.

SECTION 2. That Section 54-605, Idaho Code, be, and the same is hereby amended to read as follows:

54-605. POWERS AND DUTIES OF STATE BOARD OF PODIATRY. The state board of podiatry, herein referred to as the board, shall have the following powers:

(1-) To ~~conduct~~ approve examinations to ascertain the qualifications and fitness of applicants to practice podiatry; to pass upon the qualifications of applicants for licenses by endorsement; and to establish, by rule, the specific examinations to be required of each applicant for licensure and ~~the dates, times and locations of those examinations.~~

(2-) To prescribe rules defining for the podiatrists what shall constitute a reputable school, college or university, or department of a university or other institution in good standing, and to determine the reputability of good standing of a school, college or university, or department of a university or other institution, by reference to compliance with such rules.

(3-) To establish a standard of preliminary education deemed requisite for admission to a school, college or university teaching podiatry, and to require satisfactory proof of the enforcement of such standards by schools, colleges and universities.

(4-) To prescribe rules for a fair and wholly impartial method of examination of candidates to practice podiatry.

(5-) To conduct hearings and proceedings ~~to suspend or revoke licenses of persons practicing podiatry, and to suspend or revoke such licenses for due cause for discipline of licensees as set forth in this chapter.~~

(6-) To make and promulgate rules when required in this ~~act~~ chapter to be administered.

(7-) To make and promulgate rules prescribing the standards for the ethical practice of podiatry in the state.

(8-) To authorize, by written agreement, the bureau of occupational licenses as agent to act in its interest.

(9-) To make and promulgate rules defining and requiring a podiatric residency as a condition of licensure.

(10) To promulgate rules establishing an inactive license status and an inactive license fee.

SECTION 3. That Section 54-606, Idaho Code, be, and the same is hereby amended to read as follows:

54-606. STATE BOARD OF PODIATRY -- EXAMINATION FOR LICENSES. (1) Every person, except as hereinafter provided, desiring to commence the practice of podiatry within this state, shall make written application to the state board of podiatry, upon forms to be prescribed and furnished by the board, for a license so to do. Such applications shall be accompanied by a fee as established by board rule not to exceed four hundred dollars (\$400). Each applicant shall be at least twenty-one (21) years of age, of good moral character, have completed an accredited podiatric residency, as defined by board rule, and be a graduate of some reputable school of podiatry accredited by the board. A reputable school of podiatry for the purposes herein shall mean

a school of podiatry requiring for graduation the graduation from an accredited high school, credits granted for at least two (2) full years of general college study in a college or university of recognized standing, and four (4) full years of study in such school of podiatry or its equivalent.

~~(2) Except as herein otherwise provided, e~~Each applicant shall be examined by the board to determine his knowledge of the subjects taught in reputable schools of podiatry, and which examinations shall include the following subjects: Anatomy, histology, pathology, bacteriology, physiology, surgery, roentgenology, podiatric medicine, chemistry, dermatology, materia medica, diagnosis, therapeutics, clinical and orthopedic podiatry, limited in scope to podiatry. Additional subjects may be prescribed from time to time by the board. Examinations may be in one (1) or more of the following formats: written, oral and practical. A candidate for licensure may be required to take and pass one (1) or more examinations as set forth in board rule take and pass a competency exam approved by board rule. The examination shall test for entry level competency to provide podiatric medical services.

~~(3) The board shall also collect a separate fee from all applicants for examination. The examination fee shall not exceed six hundred dollars (\$600), together with an additional twenty-five dollar (\$25.00) administration fee~~ the amount charged by the board approved exam provider. The applicant shall pay the examination fee directly to the exam provider.

~~No applicant shall be granted a license who shall fail to obtain a satisfactory score as established by the board on all the subjects examined upon. Should any applicant fail on such examination and by reason thereof be refused a license, he shall be entitled within six (6) months of such refusal to a reexamination upon payment of an additional fee as established by board rule not to exceed four hundred dollars (\$400) to the board; provided, however, that two (2) such reexaminations shall exhaust his privilege under his original application.~~

SECTION 4. That Section 54-607, Idaho Code, be, and the same is hereby amended to read as follows:

54-607. LICENSES -- ISSUANCE -- RENEWALS -- DISPLAY. (1) If the applicant shall passes a satisfactory examination, and shall shows that he is a person of good moral character and he possesses the qualifications required by this chapter to entitle him to a license as a podiatrist, he shall be entitled to a license authorizing him to practice podiatry within the state of Idaho. Said The successful applicant shall be issued his license by the board upon payment of the original license fee which that shall be the same fee as required for renewal established by board rule and shall not exceed the annual renewal fee.

(2) All licenses issued under the provisions of this chapter shall be subject to annual renewal and shall expire unless renewed in the manner prescribed by the board regarding applications for renewal, continuing education, and fees. License renewal and reinstatement shall be in accordance with section 67-2614, Idaho Code. An annual renewal license fee established by board rule shall not exceed six hundred fifty dollars (\$650) for podiatrists. Payment of fees herein provided, and satisfactory evidence of having complied with continued education requirements as established by board rules are a conditions precedent for issuance of a license.

(3) Every person to whom a license is granted shall have such license displayed continuously in a conspicuous part of his office wherein his practice of podiatry is conducted.

(4) The board shall keep on file a register of all applicants for license, rejected applicants, and licensees.

(5) The fee for reinstatement of a license shall be as provided in section 67-2614, Idaho Code. All fees shall be paid to the bureau of occupational licenses.

SECTION 5. That Section 54-608, Idaho Code, be, and the same is hereby amended to read as follows:

54-608. GROUNDS FOR SUSPENSION, DENIAL, REFUSAL TO RENEW OR REVOCATION OF LICENSE. No license may be issued, and a license previously issued may be suspended, ~~or~~ revoked or otherwise disciplined, if the person applying ~~or~~ the person licensed is:

~~(1-)~~ Found guilty by a court of competent jurisdiction of a felony or any offense involving moral turpitude;

~~(2-)~~ Found by the board to be a repeated and excessive abuser of any drug, including alcohol, or any controlled substance;

~~(3-)~~ Found by the board to be in violation of any provision of this act chapter or the rules promulgated pursuant thereto;

~~(4-)~~ Found by the board to have used fraud or deception in the procuring of any license;

~~(5-)~~ Found by the board to have had any action, including denial of a license or the voluntary surrender of or voluntary limitation on a license, taken against the licensee by any peer review body, any health care institution, any professional medical society or association or any court, law enforcement or governmental agency; ~~or~~

~~(6-)~~ Found by the board to have been unethical, unprofessional or dishonorable in the practice of healing the sick; ~~or~~

~~(7)~~ Found by the board to have failed to comply with an order issued by the board.

SECTION 6. That Section 54-610, Idaho Code, be, and the same is hereby amended to read as follows:

54-610. PROCEEDINGS FOR SUSPENSION, ~~OR REVOCATION OR OTHER DISCIPLINE~~ OF LICENSE. (1) Proceedings for the suspension, ~~or~~ revocation or other discipline of a license shall be conducted in accordance with the provisions of chapter 52, title 67, Idaho Code. ~~Such proceedings may be initiated upon the information and accusation of any person. All accusations must be made in writing, signed and verified by the person familiar with the facts therein charged, and three (3) copies thereof must be filed with the board. Upon receiving the accusation the board shall, either as a board or through its secretary, make a preliminary examination of all the facts and circumstances connected with such charge. Such preliminary examination and papers in connection therewith shall not constitute public records. If the accusation be deemed insufficient by the board, no further action shall be taken. Should the board deem the complaint set forth in the accusation sufficient to require formal action, the board shall make an order setting the same for hearing at a specified time and place. The board shall cause a copy of such order and a copy of the verified accusation to be served upon the licensed person accused not less than twenty (20) days prior to the day appointed in the order for said hearing. The board, the person accusing and the licensed person accused may be represented by counsel at such hearing.~~

(2) The board shall have the power to administer oaths, take depositions of witnesses within or without the state in the manner provided by law in civil cases, and shall have power throughout the state of Idaho to require the attendance of such witnesses and the production of such books, records and papers as it may desire, relevant to any hearing before it of any matter which it has authority to investigate, and for that purpose the board may issue a subpoena for any witness or a subpoena duces tecum to compel the production of books, records or papers, directed to the sheriff of any county of the state of Idaho where such witness resides or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case. Fees and mileage of the witnesses shall be the same as that allowed in the district courts in criminal cases, and shall be paid from any funds in the state

treasury in the same manner as other expenses of the board are paid. In the event of disobedience to or neglect of any subpoena or subpoena duces tecum served upon any person, or the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated, it shall be the duty of the district court of any county in this state in which such disobedience, neglect or refusal occurs, or any judge thereof, on application by the board, to compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or for refusal to testify therein. The licensed person accused shall have the same right of subpoena upon making application to the board therefor.

(3) If the board shall find that the licensed person accused has violated any of the provisions of this act, the board may enter an order suspending his license for not less than thirty (30) days nor more than two (2) years. A suspended license may not be reinstated during the term of the suspension except upon order of a district court reversing the board, or upon order of the board itself after hearing new or additional evidence not available at the original proceedings. A revoked license may not be reinstated except upon order of a district court reversing the board.

Approved March 17, 2014

CHAPTER 102

(H.B. No. 371, As Amended in the Senate)

AN ACT

RELATING TO THE IDAHO FOREST PRODUCTS COMMISSION; AMENDING SECTION 38-1503, IDAHO CODE, TO REVISE PROVISIONS RELATING TO ADVISORY MEMBERS OF THE IDAHO FOREST PRODUCTS COMMISSION; AMENDING SECTION 38-1504, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE COMPOSITION OF THE IDAHO FOREST PRODUCTS COMMISSION; AMENDING SECTION 38-1515, IDAHO CODE, TO REVISE ASSESSMENT PROVISIONS AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 38-1503, Idaho Code, be, and the same is hereby amended to read as follows:

38-1503. FOREST PRODUCTS COMMISSION CREATED -- MEMBERS. (1) There is hereby created and established in the department of self-governing agencies the Idaho forest products commission, to be composed of five (5) voting members appointed by the governor from a list of names with at least two (2) names for each appointive office for each district submitted to the governor by the financial supporters of the commission in each district. Initial members of the commission shall serve either a three (3) or five (5) year term, with two (2) members of the commission serving three (3) year terms, and three (3) members of the commission serving five (5) year terms. For the initial commission members, the duration of each member's term shall be determined by lot. Thereafter, all commission members shall serve terms of three (3) years, and may be reappointed. The commission shall adopt rules to define the process for filling vacancies to the commission and to provide for determining the terms of office for all members of the commission after the expiration of the terms of the original members.

(2) The governor shall also name as permanent advisory members to the commission, the director of the department of lands, a representative of the United States forest service, the dean of the University of Idaho college of forestry, wildlife and range sciences natural resources or the dean's designee, a representative of the Idaho department of commerce and the Idaho

department of agriculture with expertise in marketing and promotion and the executive directors of the intermountain forest industry association and the associated logging contractors. No advisory member of the commission shall have a vote on the commission.

SECTION 2. That Section 38-1504, Idaho Code, be, and the same is hereby amended to read as follows:

38-1504. QUALIFICATIONS OF THE MEMBER AND COMPOSITION OF THE COMMISSION. (1) Each member of the commission shall be nominated and appointed because of their knowledge of forest management, the forest products industry, or because they possess communications skills which would enhance the ability of the commission to carry out its duties. Members of the commission shall be residents of the state who derive a substantial part of their income from association with the forest products industry within the state of Idaho. Beginning on July 1, 2014, there shall be a total of five (5) members, including four (4) district members and one (1) at-large member. There shall be one (1) district member from each of the four (4) districts as follows:

District 1. The counties of Boundary, Bonner and Kootenai.

District 2. The counties of Shoshone, Benewah, Latah and Clearwater.

District 3. Idaho county and all counties north of the Salmon river not heretofore named.

District 4. Adams, Valley, Payette, Washington, Ada, Boise, Gem, and all other counties south of the Salmon river not heretofore named. ~~From this district, the governor shall appoint two (2) members to the commission.~~

At-large. There shall be one (1) at-large member from any of the four (4) districts identified herein.

(2) The governor shall assure through his appointments to the commission that the commission membership reflects equitable representation from the timber growing, logging and transportation, and forest products manufacturing segments of the industry. ~~The commission shall also include no less than one (1) member with demonstrated experience in communications or natural resource education.~~

SECTION 3. That Section 38-1515, Idaho Code, be, and the same is hereby amended to read as follows:

38-1515. IMPOSITION OF ASSESSMENTS AND PROVISION FOR LATE FEES. (1) From and after the first day of July, 1995, the commission is hereby authorized to levy the following assessments:

(a) For all forest products manufacturers, an amount no greater than fifty cents (50¢) per thousand board feet or the equivalent thereof for all logs either harvested in Idaho or measured or processed by a manufacturing entity located in the state of Idaho, regardless of the state in which the logs might have been cut. For purposes of this chapter, "forest products manufacturers" shall include those business entities which buy timber in Idaho and then sell it to other persons outside the state for manufacture into finished products. Such business entities shall be liable for the assessments described in this paragraph for all timber cut within Idaho and then distributed to other persons outside the state.

(b) For all business entities engaged in the harvest or transport of timber, logs, unfinished lumber, chips, sawdust, shavings or hog fuel in Idaho, a sum no greater than twenty-five dollars (\$25.00) per employee, including single, self-employers and the individuals involved in partnerships, as measured by the records of the department of employment labor during the month of July of the preceding year, or as provided in subsection (2) of this section, provided, however, those

business entities engaged solely in the harvest or transport of those exclusions to forest products manufacturers as set forth in subsection (7) (a), (b), (c) and (d) of section 38-1502, Idaho Code, shall owe no duty or assessment under this chapter, nor shall any assessment be levied upon forest products transported by railroad.

(c) For business entities or persons owning more than fifty ten thousand (510,000) acres of private forest land within the state of Idaho ~~but with no facilities for manufacturing forest products within the state~~, a sum no greater than ~~sixteen and sixty-six one hundredths~~ ten cents (16.6610¢) per each acre of forest land, ~~provided, however, that this assessment shall be reduced by an amount equal to the assessment described in paragraph (a) of this subsection for all logs harvested from that land in the preceding calendar year and assessed in this section. Persons owning less than a total of fifty thousand (50,000) acres of forest land in the state shall bear no assessment or fee pursuant to the provisions of this subsection.~~

(d) No firm or business entity shall be liable for assessments under this chapter in more than one (1) of the categories described in this section. In the event that a person, firm or business entity qualifies to pay more than one (1) assessment as described herein, then the greater of the assessments shall be assessed, due and payable.

(2) In collecting assessments due the commission, the commission is authorized to cooperate with and coordinate its actions to collect assessments with the various efforts of the Idaho board of scaling practices, the state tax commission, the department of employment labor, the transportation department and the department of lands to either collect assessments or taxes due under the provisions of this chapter or to identify those who may owe assessments under the provisions of this chapter.

(3) Any person or firm who makes payment to the commission at a date later than that prescribed in rules set forth by the commission under this section may be subject to a late payment penalty as set forth by the commission by rule. Such penalty shall not exceed fifteen percent (15%) per annum on the amount due. In addition to the above penalty, the commission shall be entitled to recover all costs, fees, and reasonable attorney's fees incurred in the collection of the tax and penalty provided for in this section.

(4) An assessment levied under this chapter shall be based upon data compiled from the base year. Assessments shall be paid to the commission according to such rules as may be adopted by the commission.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 17, 2014

CHAPTER 103
(H.B. No. 412)

AN ACT

RELATING TO THE IDAHO DEPARTMENT OF WATER RESOURCES; AMENDING SECTION 42-1701, IDAHO CODE, TO REVISE QUALIFICATION REQUIREMENTS FOR THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 42-1701, Idaho Code, be, and the same is hereby amended to read as follows:

42-1701. CREATION OF DEPARTMENT OF WATER RESOURCES -- DIRECTOR -- QUALIFICATIONS -- DUTIES. (1) There is hereby created the department of water resources, which shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of the state government.

(2) The executive and administrative authority of the department, except such authority as is specifically assigned by law to the water resource board, shall be vested in a director of the department of water resources who shall be: a licensed civil or hydraulic agricultural engineer, and shall have had with not less than five (5) years¹ of experience in the active practice of such profession; a registered geologist with not less than five (5) years of experience in the active practice of hydrology; or a hydrologist holding a bachelor's or advanced degree in hydrology from a college or university accredited by a nationally recognized accrediting organization and with not less than five (5) years of experience in surface water and ground water modeling, water delivery and water measurement. The director of the department of water resources shall also demonstrate experience and expertise in interpreting and applying Idaho water law and shall be familiar with irrigation and other water use practices in Idaho.

(3) The director may delegate such duties as are imposed upon him by law to an employee of the department of water resources whenever in the opinion of the director, such delegation is necessary for the efficient administration of his duties.

(4) The director shall organize the department into such divisions and other administrative ~~sub-units~~ subunits as may be necessary in order to efficiently administer the department. All employees of the department, except the director, shall be selected and appointed by the director in conformance with the provisions of chapter 53, title 67, Idaho Code.

(5) The director and/or employees of the department of water resources may make reasonable entry upon any lands in the state for the purpose of making investigations and surveys, or for other purposes necessary to carry out the duties imposed by law.

(6) (a) Any authorization or order of the Idaho public utilities commission, under the provisions of section 61-328, Idaho Code, approving the sale, assignment or transfer of hydropower water rights used in the generation of electric power shall be issued only upon such conditions as the director of the department of water resources shall require as necessary to prevent any change in use of water under the water rights held for hydropower purposes that would cause injury to any water rights existing on the date of the sale, assignment or transfer. Any such conditions shall ensure that the public interest, as it pertains to the use of water under the hydropower water rights, will not be adversely affected. Conditions, if any, imposed by the director shall be subject to review under section 42-1701A(4), Idaho Code.

(b) Subsection (6) (a) of this section may be satisfied by a written agreement between the holder of a water right held for hydropower purposes and the governor, which agreement has been ratified by the legislature of the state of Idaho. The agreement between the governor and the Idaho Ppower Company dated October 15, 1984, and ratified by the legislature of the state of Idaho pursuant to section 42-203B, Idaho Code, and the subordination provisions relating to the Idaho Ppower Company's water rights satisfy subsection (6) (a) of this section.

CHAPTER 104
(H.B. No. 467)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-104, IDAHO CODE, TO PROVIDE THAT CERTAIN CONTROLLED HUNT PERMITS MAY ALSO BE ISSUED FOR BEAR AND TURKEY; AND AMENDING SECTION 36-106, IDAHO CODE, TO PROVIDE THAT WILDLIFE SUBJECT TO SPECIAL DEPREDATION HUNTS SHALL INCLUDE BEAR AND TURKEY.

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

SECTION 1. That Section 36-104, Idaho Code, be, and the same is hereby amended to read as follows:

36-104. GENERAL POWERS AND DUTIES OF COMMISSION. (a) Organization -- Meetings. The members of the commission shall annually meet at their offices and organize by electing from their membership a chairman, who shall hold office for a period of one (1) year, or until his successor has been duly elected. In addition to the regular annual meeting, to be held in January, said commission shall hold other regular quarterly meetings each year at such places within the state as the commission shall select for the transaction of business. Special meetings may be called at any time and place by the chairman or a majority of the members of the commission. Notice of the time, place and purpose of any and all special meetings shall be given by the secretary to each member of the commission prior to said meeting.

(b) Authorization for Commission Powers and Duties. For the purpose of administering the policy as declared in section 36-103, Idaho Code, the commission is hereby authorized and empowered to:

1. Investigate and find facts regarding the status of the state's wildlife populations in order to give effect to the policy of the state hereinbefore announced.
2. Hold hearings for the purpose of hearing testimony, considering evidence and determining the facts as to when the supply of any of the wildlife in this state will be injuriously affected by the taking thereof, or for the purpose of determining when an open season may be declared for the taking of wildlife. Whenever said commission determines that the supply of any particular species of wildlife is being, or will be, during any particular period of time, injuriously affected by depletion by permitting the same to be taken, or if it should find a longer or different season, or different bag limit should be adopted for the better protection thereof, or if it finds that an open season may be declared without endangering the supply thereof, then it shall make a rule or proclamation embodying its findings in respect to when, under what circumstances, in which localities, by what means, what sex, and in what amounts and numbers the wildlife of this state may be taken.
3. Whenever it finds it necessary for the preservation, protection, or management of any wildlife of this state, by reason of any act of God or any other sudden or unexpected emergency, declare by temporary rule or proclamation the existence of such necessity, and the cause thereof, and prescribe and designate all affected areas or streams, and close the same to hunting, angling or trapping, or impose such restrictions and conditions upon hunting, angling or trapping as said commission shall find to be necessary. Every such temporary rule shall be made in accordance with the provisions of chapter 52, title 67, Idaho Code.
4. At any time it shall deem necessary for the proper management of wildlife on any game preserve in the state of Idaho, declare an open season in any game preserve as it deems appropriate.

5. (A) Upon notice to the public, hold a public drawing giving to license holders, under the wildlife laws of this state, the privilege of drawing by lot for a controlled hunt permit authorizing the person to whom issued to hunt, kill, or attempt to kill any species of wild animals or birds designated by the commission under such rules as it shall prescribe.

(B) The commission may, under rules or proclamations as it may prescribe, authorize the director to issue additional controlled hunt permits and collect fees therefor authorizing landowners of property valuable for habitat or propagation purposes of deer, elk, ~~or~~ antelope, bear or turkey, or the landowner's designated agent(s) to hunt deer, elk, ~~or~~ antelope, bear or turkey in controlled hunts containing the eligible property owned by those landowners in units where any permits for deer, elk, ~~or~~ antelope, bear or turkey are limited.

(C) A nonrefundable fee as specified in section 36-416, Idaho Code, shall be charged each applicant for a controlled hunt permit. Successful applicants for controlled hunt permits shall be charged the fee as specified in section 36-416, Idaho Code. Additionally, a fee may be charged for telephone and credit card orders in accordance with subsection (e)11. of section 36-106, Idaho Code. The department shall include a checkoff form to allow applicants to designate one dollar (\$1.00) of such nonrefundable application fee for transmittal to the reward fund of citizens against poaching, inc., an Idaho nonprofit corporation. The net proceeds from the nonrefundable fee shall be deposited in the fish and game account and none of the net proceeds shall be used to purchase lands.

(D) The commission may by rule establish procedures relating to the application for the purchase of controlled hunt bonus or preference points by sportsmen and the fee for such application shall be as specified in section 36-416, Idaho Code.

6. Adopt rules pertaining to the importation, exportation, release, sale, possession or transportation into, within or from the state of Idaho of any species of live, native or exotic wildlife or any eggs thereof.

7. Acquire for and on behalf of the state of Idaho, by purchase, condemnation, lease, agreement, gift, or other device, lands or waters suitable for the purposes hereinafter enumerated in this paragraph. Whenever the commission proposes to purchase a tract of land in excess of fifteen (15) acres, the commission shall notify the board of county commissioners of the county where this land is located of the intended action. The board of county commissioners shall have ten (10) days after official notification to notify the commission whether or not they desire the commission to hold a public hearing on the intended purchase in the county. The commission shall give serious consideration to all public input received at the public hearing before making a final decision on the proposed acquisition. Following any land purchase, the fish and game commission shall provide, upon request by the board of county commissioners, within one hundred twenty (120) days, a management plan for the area purchased that would address noxious weed control, fencing, water management and other important issues raised during the public hearing. When considering purchasing lands pursuant to this paragraph, the commission shall first make a good faith attempt to obtain a conservation easement, as provided in chapter 21, title 55, Idaho Code, before it may begin proceedings to purchase, condemn or otherwise acquire such lands. If the attempt to acquire a conservation easement is unsuccessful and the commission then purchases, condemns or otherwise acquires the lands, the commission shall record in writing the reasons

why the attempt at acquiring the conservation easement was unsuccessful and then file the same in its records and in a report to the joint finance-appropriations committee. The commission shall develop, operate, and maintain the lands, waters or conservation easements for said purposes, which are hereby declared a public use:

(A) For fish hatcheries, nursery ponds, or game animal or game bird farms;

(B) For game, bird, fish or fur-bearing animal restoration, propagation or protection;

(C) For public hunting, fishing or trapping areas to provide places where the public may fish, hunt, or trap in accordance with the provisions of law, or the regulation of the commission;

(D) To extend and consolidate by exchange, lands or waters suitable for the above purposes.

8. Enter into cooperative agreements with educational institutions, and state, federal, or other agencies to promote wildlife research and to train students for wildlife management.

9. Enter into cooperative agreements with state and federal agencies, municipalities, corporations, organized groups of landowners, associations, and individuals for the development of wildlife rearing, propagating, management, protection and demonstration projects.

10. In the event owners or lawful possessors of land have restricted the operation of motor-propelled vehicles upon their land, the commission, upon consultation with all other potentially affected landowners, and having held a public hearing, if requested by not less than ten (10) residents of any county in which the land is located, may enter into cooperative agreements with those owners or possessors to enforce those restrictions when the restrictions protect wildlife or wildlife habitat. Provided, however, the commission shall not enter into such agreements for lands which either lie outside or are not adjacent to any adjoining the proclaimed boundaries of the national forests in Idaho.

(A) The landowners, with the assistance of the department, shall cause notice of the restrictions, including the effective date thereof, to be posted on the main traveled roads entering the areas to which the restrictions apply. Provided, however, that nothing in this subsection shall allow the unlawful posting of signs or other information on or adjacent to public highways as defined in subsection (5) of section 40-109, Idaho Code.

(B) Nothing in this section authorizes the establishment of any restrictions that impede normal forest or range management operations.

(C) No person shall violate such restrictions on the use of motor-propelled vehicles or tear down or lay down any fencing or gates enclosing such a restricted area or remove, mutilate, damage or destroy any notices, signs or markers giving notice of such restrictions. The commission may promulgate rules to administer the restrictions and cooperative agreements addressed in this subsection.

11. Capture, propagate, transport, buy, sell or exchange any species of wildlife needed for propagation or stocking purposes, or to exercise control of undesirable species.

12. Adopt rules pertaining to the application for, issuance of and administration of a lifetime license certificate system.

13. Adopt rules governing the application and issuance of permits for and administration of fishing contests on waters under the jurisdiction of the state. The fee for each permit shall be as provided for in section 36-416, Idaho Code.

14. Adopt rules governing the application for and issuance of licenses by telephone and other electronic methods.

15. Enter into agreements with cities, counties, recreation districts or other political subdivisions for the lease of lands or waters, in accordance with all other applicable laws, including applicable provisions of titles 42 and 43, Idaho Code, to cost-effectively provide recreational opportunities for taxpayers or residents of those local governments or political subdivisions.

16. Adopt rules governing a mentored hunting program.

(c) Limitation on Powers. Nothing in this title shall be construed to authorize the commission to change any penalty prescribed by law for a violation of its provisions, or to change the amount of license fees or the authority conferred by licenses prescribed by law.

(d) Organization of Work. The commission shall organize the department, in accordance with the provisions of title 67, Idaho Code, into administrative units as may be necessary to efficiently administer said department. All employees of the department except the director shall be selected and appointed by the director in conformance with the provisions of chapter 53, title 67, Idaho Code.

SECTION 2. That Section 36-106, Idaho Code, be, and the same is hereby amended to read as follows:

36-106. DIRECTOR OF DEPARTMENT OF FISH AND GAME. (a) Office of Director Created. The commission shall appoint a director of the department of fish and game, hereinafter referred to as the director, who shall be a person with knowledge of, and experience in, the requirements for the protection, conservation, restoration, and management of the wildlife resources of the state. The director shall not hold any other public office, nor any office in any political party organization, and shall devote his entire time to the service of the state in the discharge of his official duties, under the direction of the commission.

(b) Secretary to Commission. The director or his designee shall serve as secretary to the commission.

(c) Compensation and Expenses. The director shall receive such compensation as the commission, with the concurrence and approval of the governor, may determine and shall be reimbursed at the rate provided by law for state employees for all actual and necessary traveling and other expenses incurred by him in the discharge of his official duties.

(d) Oath and Bond. Before entering upon the duties of his office, the director shall take and subscribe to the official oath of office, as provided by section 59-401, Idaho Code, and shall, in addition thereto, swear and affirm that he holds no other public office, nor any position under any political committee or party. Such oath, or affirmation, shall be signed 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.

(e) Duties and Powers of Director.

1. The director shall have general supervision and control of all activities, functions, and employees of the department of fish and game, under the supervision and direction of the commission, and shall enforce all the provisions of the laws of the state, and rules and proclamations of the commission relating to wild animals, birds, and fish and, further, shall perform all the duties prescribed by section 67-2405, Idaho Code, and other laws of the state not inconsistent with this act, and shall exercise all necessary powers incident thereto not specifically conferred on the commission.

2. The director is hereby authorized to appoint as many classified employees as the commission may deem necessary to perform administrative duties, to enforce the laws and to properly implement management, prop-

agation, and protection programs established for carrying out the purposes of the Idaho fish and game code.

3. The appointment of such employees shall be made by the director in accordance with chapter 53, title 67, Idaho Code, and rules promulgated pursuant thereto, and they shall be compensated as provided therein. Said employees shall be bonded to the state of Idaho in the time, form, and manner prescribed by chapter 8, title 59, Idaho Code.

4. The director is hereby authorized to establish and maintain fish hatcheries for the purpose of hatching, propagating, and distributing all kinds of fish.

5. (A) The director, or any person appointed by him in writing to do so, may take wildlife of any kind, dead or alive, or import the same, subject to such conditions, restrictions and rules as he may provide, for the purpose of inspection, cultivation, propagation, distribution, scientific or other purposes deemed by him to be of interest to the fish and game resources of the state.

(B) The director shall have supervision over all of the matters pertaining to the inspection, cultivation, propagation and distribution of the wildlife propagated under the provisions of title 36, Idaho Code. He shall also have the power and authority to obtain, by purchase or otherwise, wildlife of any kind or variety which he may deem most suitable for distribution in the state and may have the same properly cared for and distributed throughout the state of Idaho as he may deem necessary.

(C) The director is hereby authorized to issue a license/tag/permit to a nonresident landowner who resides in a contiguous state for the purpose of taking one (1) animal during an emergency depredation hunt which includes the landowner's Idaho property subject to such conditions, restrictions or rules as the director may provide. The fee for this license/tag/permit shall be equal to the costs of a resident hunting license, a resident tag fee and a resident depredation permit.

(D) Unless relocation is required pursuant to subparagraph (E) herein, notwithstanding the provisions of section 36-408, Idaho Code, to the contrary, the director shall not expend any funds, or take any action, or authorize any employee or agent of the department or other person to take any action, to undertake actual transplants of bighorn sheep into areas they do not now inhabit for the purpose of augmenting existing populations until:

(i) The boards of county commissioners of the counties in which the release is proposed to take place have been given reasonable notice of the proposed release.

(ii) The affected federal and state land grazing permittees and owners or leaseholders of private land in or contiguous to the proposed release site have been given reasonable notice of the proposed release.

(iii) The president pro tempore of the senate and the speaker of the house of representatives have received from the director a plan for the forthcoming year that details, to the best of the department's ability, the proposed transplants which shall include the estimated numbers of bighorn sheep to be transplanted and a description of the areas the proposed transplant or transplants are planned for.

Upon request, the department shall grant one (1) hearing per transplant or relocation if any affected individual or entity expresses written concern within ten (10) days of notification regarding any transplants or relocations of bighorn sheep and shall take into consideration these concerns in approving, modifying or canceling any proposed bighorn sheep transplant or relocation.

Any such hearing shall be held within thirty (30) days of the request. It is the policy of the state of Idaho that existing sheep or livestock operations in the area of any bighorn sheep transplant or relocation are recognized and that the potential risk, if any, of disease transmission and loss of bighorn sheep when the same invade domestic livestock or sheep operations is accepted. Prior to any transplant or relocation of bighorn sheep into areas they do not now inhabit or a transplant or relocation for the purpose of augmenting existing populations, the department shall provide for any affected federal or state land grazing permittees or owners or leaseholders of private land a written agreement signed by all federal, state and private entities responsible for the transplant or relocation stating that the existing sheep or livestock operations in the area of any such bighorn sheep transplant or relocation are recognized and that the potential risk, if any, of disease transmission and loss of bighorn sheep when the same invade domestic livestock or sheep operations is accepted.

(E) The Idaho department of fish and game: (1) shall develop a state management plan to maintain a viable, self-sustaining population of bighorn sheep in Idaho which shall consider as part of the plan the current federal or state domestic sheep grazing allotment(s) that currently have any bighorn sheep upon or in proximity to the allotment(s); (2) within ninety (90) days of the effective date of this act will cooperatively develop best management practices with the permittee(s) on the allotment(s). Upon commencement of the implementation of best management practices, the director shall certify that the risk of disease transmission, if any, between bighorn and domestic sheep is acceptable for the viability of the bighorn sheep. The director's certification shall continue for as long as the best management practices are implemented. The director may also certify that the risk of disease transmission, if any, between bighorn and domestic sheep is acceptable for the viability of the bighorn sheep based upon a finding that other factors exist, including but not limited to previous exposure to pathogens that make separation between bighorn and domestic sheep unnecessary.

6. (A) The director shall have the power, at any time when it is desired to introduce any new species, or if at any time any species of wildlife of the state of Idaho shall be threatened with excessive shooting, trapping, or angling or otherwise, to close any open season or to reduce the bag limit or possession limit for such species for such time as he may designate; in the event an emergency is declared to exist such closure shall become effective forthwith upon written order of the director; in all other cases upon publication and posting as provided in section 36-105, Idaho Code.

(B) In order to protect property from damage by wildlife, including bear and turkey, the fish and game commission may delegate to the director or his designee the authority to declare an open season upon that particular species of wildlife to reduce its population. The director or his designee shall make an order embodying his findings in respect to when, under what circumstances, in which localities, by what means, and in what amounts, numbers and sex the wildlife subject to the hunt may be taken. In the event an emergency is declared to exist such open season shall become effective forthwith upon written order of the director or his designee; in all other cases upon publication and posting as provided in section 36-105, Idaho Code.

(C) Any season closure order issued under authority hereof shall be published in at least one (1) newspaper of general circulation in the area affected by the order for at least once a week for two (2) consecutive weeks, and such order shall be posted in public places in each county as the director may direct.

(D) During the closure of any open season or the opening of any special depredation season by the director all provisions of laws relating to the closed season or the special depredation season on such wildlife shall be in force and whoever violates any of the provisions shall be subject to the penalties prescribed therefor.

(E) Prior to the opening of any special depredation hunt, the director or his designee shall be authorized to provide up to a maximum of fifty percent (50%) of the available permits for such big game to the landholder(s) of privately owned land within the hunt area or his designees. If the landholder(s) chooses to designate hunters, he must provide a written list of the names of designated individuals to the department. If the landholder(s) fails to designate licensed hunters, then the department will issue the total available permits in the manner set by rule. All hunters must have a current hunting license and shall have equal access to both public and private lands within the hunt boundaries. It shall be unlawful for any landholder(s) to receive any form of compensation from a person who obtains or uses a depredation controlled hunt permit.

7. The director shall make an annual report to the governor, the legislature, and the secretary of state, of the doings and conditions of his office, which report shall be made in accordance with section 67-2509, Idaho Code.

8. The director may sell or cause to be sold publications and materials in accordance with section 59-1012, Idaho Code.

9. Any deer, elk, antelope, moose, bighorn sheep or bison imported or transported by the department of fish and game shall be tested for the presence of certain communicable diseases that can be transmitted to domestic livestock. Those communicable diseases to be tested for shall be arrived at by mutual agreement between the department of fish and game and the department of agriculture. Any moneys expended by the department of fish and game on wildlife disease research shall be mutually agreed upon by the department of fish and game and the department of agriculture.

In addition, a comprehensive animal health program for all deer, elk, antelope, moose, bighorn sheep, or bison imported into, transported, or resident within the state of Idaho shall be implemented after said program is mutually agreed upon by the department of fish and game and the department of agriculture.

10. In order to monitor and evaluate the disease status of wildlife and to protect Idaho's livestock resources, any suspicion by fish and game personnel of a potential communicable disease process in wildlife shall be reported within twenty-four (24) hours to the department of agriculture. All samples collected for disease monitoring or disease evaluation of wildlife shall be submitted to the division of animal industries, department of agriculture.

11. (A) The director is authorized to enter into an agreement with an independent contractor for the purpose of providing a telephone order and credit card payment service for controlled hunt permits, licenses, tags, and permits.

(B) The contractor may collect a fee for its service in an amount to be set by contract.

(C) All moneys collected for the telephone orders of such licenses, tags, and permits shall be and remain the property of

the state, and such moneys shall be directly deposited by the contractor into the state treasurer's account in accordance with the provisions of section 59-1014, Idaho Code. The contractor shall furnish a good and sufficient surety bond to the state of Idaho in an amount sufficient to cover the amount of the telephone orders and potential refunds.

(D) The refund of moneys for unsuccessful controlled hunt permit applications and licenses, tags, and permits approved by the department may be made by the contractor crediting the applicant's or licensee's credit card account.

12. The director may define activities or facilities that primarily provide a benefit: to the department; to a person; for personal use; to a commercial enterprise; or for a commercial purpose.

Approved March 17, 2014

CHAPTER 105
(H.B. No. 357)

AN ACT

RELATING TO THE SPEECH AND HEARING SERVICES PRACTICE ACT; AMENDING SECTION 54-2909, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A QUORUM.

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

SECTION 1. That Section 54-2909, Idaho Code, be, and the same is hereby amended to read as follows:

54-2909. OFFICERS -- QUORUM -- MEETINGS -- COMPENSATION. (1) The board, within sixty (60) days after the effective date of this act and annually thereafter, shall hold a meeting and elect one (1) of its members as chairperson, to serve a one (1) year term in such capacity, who shall preside at meetings of the board. In the event the chairperson is not present at any board meeting, the board may by majority vote of the members present appoint a temporary chairperson.

(2) Four (4) members of the board shall constitute a quorum, provided at least one (1) audiologist, ~~one (1) speech-language pathologist, the hearing aid dealer and fitter member and the public board member~~ are of the relevant profession is present when any board action is taken that affects the profession, its licensees or applicants. The board may act by virtue of a majority vote of members present in which a quorum is present.

(3) The board shall meet at least two (2) times per year at a place, day and hour determined by the board. Other meetings may be convened at the call of the chairperson or upon the written request of any two (2) board members.

(4) Members of the board shall be compensated as provided by section 59-509(n), Idaho Code.

Approved March 18, 2014

CHAPTER 106
(H.B. No. 405)

AN ACT

RELATING TO DRINKING WATER AND WASTEWATER PROFESSIONALS; AMENDING SECTION 54-2411, IDAHO CODE, TO REMOVE CERTAIN REQUIREMENTS RELATING TO THE RE-INSTATEMENT OF A CANCELED DRINKING WATER OPERATOR LICENSE.

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

SECTION 1. That Section 54-2411, Idaho Code, be, and the same is hereby amended to read as follows:

54-2411. ANNUAL RENEWAL OF LICENSE. Every person licensed under the provisions of this chapter shall annually pay the prescribed renewal fee and certify compliance with continuing education requirements and provide such other information as the board may request. Any license canceled for failure to meet the renewal requirements may be reinstated according to section 67-2614, Idaho Code, ~~except that in the case of a drinking water operator whose license has been canceled for a period of more than two (2) years, the person so affected shall be required to make application to the board, using the same forms and furnishing the same information and paying the same fee and successfully completing the same examination as is required of a person originally applying for a license of the same classification.~~

Approved March 18, 2014

CHAPTER 107
(H.B. No. 410)

AN ACT

RELATING TO INJECTION WELLS; AMENDING SECTION 42-3902, IDAHO CODE, TO REVISE THE DEFINITION OF "INJECTION WELL" AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 42-3902, Idaho Code, be, and the same is hereby amended to read as follows:

42-3902. DEFINITIONS. Whenever used in this chapter:

(1) "Aquifer" means any geologic formation that will yield water to a well in sufficient quantities to make production of water from the formation feasible for beneficial use, except when the water in such formation results solely from injection through a deep or shallow injection well.

(2) "Class II injection well" means a deep injection well used to inject fluids:

(a) Which are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production and may be commingled with waste waters from gas plants, dehydration stations, or compressor stations which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;

(b) For enhanced recovery of oil or natural gas; or

(c) For storage of hydrocarbons which are liquid at standard temperature and pressure.

(3) "Deep injection well" means an injection well which is more than eighteen (18) feet in vertical depth below land surface.

(4) "Director" means the director of the department of water resources.

(5) "Drinking water source" means an aquifer which contains water having less than ten thousand (10,000) mg/l total dissolved solids and has not been exempted from this designation by the director of the department of water resources.

(6) "Fluid" means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gaseous or any other form or state.

(7) "Formation" means a body of consolidated or unconsolidated rock characterized by a degree of lithologic homogeneity which is mappable at the earth's surface or traceable in the subsurface.

(8) "Hazardous waste" means any fluid or combination of fluids, excluding radioactive wastes, which because of quantity, concentration or characteristics (physical, chemical or biological) may:

(a) Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible or incapacitating reversible illness; or

(b) Pose a substantial threat to human health or to the environment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitable, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties, but do not include solid or dissolved material in domestic sewage or solid or dissolved material in irrigation return flows.

(9) "Injection" means the subsurface emplacement of fluids through an injection well, but excludes the following:

(a) The underground injection of natural gas for purposes of storage; and

(b) The underground injection of fluids or propping agents, other than diesel fuels, pursuant to hydraulic fracturing operations related to oil, gas or geothermal production activities.

(10) "Injection well" means any feature that is operated to allow injection which also meets at least one (1) of the following criteria:

(a) A bored, drilled or driven shaft whose depth is greater than the largest surface dimension;

(b) A dug hole whose depth is greater than the largest surface dimension;

(c) An improved sinkhole; or

(d) A subsurface fluid distribution system.

Provided however, that "injection well" does not mean or include any well drilled used for oil, gas or geothermal production activities, other than one into which diesel fuels are injected pursuant to hydraulic fracturing operations.

(11) "Irrigation waste water" means excess surface water from agricultural fields generated during any agricultural operation, including runoff of irrigation tailwater, as well as natural drainage resulting from precipitation, snowmelt and floodwaters.

(12) "Licensed driller" means any person holding a valid license to drill water wells in Idaho as provided and defined in section 42-238, Idaho Code.

(13) "Operate" means to allow fluids to enter an injection well by action or by inaction of the operator.

(14) "Operator" means any individual, group of individuals, partnership, company, corporation, municipality, county, state agency, taxing district or federal agency who operates or proposes to operate any injection well.

(15) "Owner" means any individual, group of individuals, partnership, company, corporation, municipality, county, state agency, taxing district, or federal agency owning land on which any injection well exists or is proposed to be constructed.

(16) "Radioactive material" means any material, solid, liquid or gas which emits radiation spontaneously.

(17) "Radioactive waste" means any fluid which contains radioactive material in concentrations which exceed those established for discharges to water by 10 CFR 20.

~~(18) "Shallow injection well" means an injection well which is less than or equal to eighteen (18) feet in vertical depth below land surface.~~

~~(19) "Sanitary waste" means any fluid generated through residential (domestic) activities, such as food preparation, cleaning and personal hygiene. The term does not include industrial, municipal, commercial or other nonresidential process fluids.~~

(19) "Shallow injection well" means an injection well which is less than or equal to eighteen (18) feet in vertical depth below land surface.

(20) "Surface runoff water" means runoff water from the natural ground surface and cropland. Runoff from urbanized areas, such as streets, parking lots, airports, and runoff from animal feedlots, agricultural processing facilities and similar facilities are not included within the scope of this term.

Approved March 18, 2014

CHAPTER 108
(H.B. No. 471)

AN ACT

RELATING TO THE REGULATION OF PIPELINE CORPORATIONS; AMENDING SECTION 61-114, IDAHO CODE, TO CLARIFY THE DEFINITION OF OIL AND GAS GATHERING LINES; AMENDING SECTION 61-129, IDAHO CODE, TO CLARIFY THAT PIPELINE CORPORATIONS MUST MAKE APPLICATION TO THE PUBLIC UTILITIES COMMISSION TO BE REGULATED GENERALLY AS A PUBLIC UTILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 61-114, Idaho Code, be, and the same is hereby amended to read as follows:

61-114. PIPELINE. (1) The term "pipeline" when used in this act includes all real estate, gathering lines, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate the transmission, storage, distribution or delivery of natural gas or manufactured gas, crude oil or other fluid substances except water through pipelines.

(2) "Gathering lines" means fixtures, valves, pipes and other property used to transport, deliver or distribute natural gas, manufactured gas ~~or~~, natural gas condensate, crude oil or other petroleum products from a well-head to a ~~treatment facility or a point of interconnection with another gathering line, a transmission line or main line.~~

SECTION 2. That Section 61-129, Idaho Code, be, and the same is hereby amended to read as follows:

61-129. PUBLIC UTILITY. The term "public utility" when used in this act includes every common carrier, pipeline corporation, gas corporation, electrical corporation, telephone corporation and water corporation, as those terms are defined in this chapter and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and

regulation of the commission and to the provisions of this act. The term "public utility" as used in this act shall cover cases:

(1) Where the service is performed and the commodity delivered directly to the public or some portion thereof, and where the service is performed or the commodity delivered to any corporation or corporations, or any person or persons, who in turn, either directly or indirectly or mediately or immediately, performs the services or delivers such commodity to or for the public or some portion thereof; and

(2) Where a pipeline corporation delivers the commodity to any corporation, person, their lessees, receivers or trustees regardless of whether it offers the pipeline service or commodity to the public or some portion thereof. Such pipeline shall be subject to the safety supervision and regulation of the commission only, unless and until such pipeline corporation makes application to the commission to be regulated generally as a public utility.

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

Approved March 18, 2014

CHAPTER 109
(H.B. No. 476)

AN ACT

RELATING TO MEDICAID; AMENDING SECTION 56-255, IDAHO CODE, TO REVISE PROVISIONS RELATING TO HOME-BASED AND COMMUNITY-BASED SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES.

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

SECTION 1. That Section 56-255, Idaho Code, be, and the same is hereby amended to read as follows:

56-255. MEDICAL ASSISTANCE PROGRAM -- SERVICES TO BE PROVIDED. (1) The department may make payments for the following services furnished by providers to participants who are determined to be eligible on the dates on which the services were provided. Any service under this section shall be reimbursed only when medically necessary within the appropriations provided by law and in accordance with federal law and regulation, Idaho law and department rule. Notwithstanding any other provision of this chapter, medical assistance includes the following benefits specific to the eligibility categories established in section 56-254(1), (2) and (3), Idaho Code, as well as a list of benefits to which all Idaho medicaid participants are entitled, defined in subsection (5) of this section.

(2) Specific health benefits and limitations for low-income children and working-age adults with no special health needs include:

(a) All services described in subsection (5) of this section;

(b) Early and periodic screening, diagnosis and treatment services for individuals under age twenty-one (21) years, and treatment of conditions found; and

(c) Cost-sharing required of participants. Participants in the low-income children and working-age adult group are subject to the following premium payments, as stated in department rules:

- (i) Participants with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty guideline are not required to pay premiums; and
 - (ii) Participants with family incomes above one hundred thirty-three percent (133%) of the federal poverty guideline will be required to pay premiums in accordance with department rule.
- (3) Specific health benefits for persons with disabilities or special health needs include:
- (a) All services described in subsection (5) of this section;
 - (b) Early and periodic screening, diagnosis and treatment services for individuals under age twenty-one (21) years, and treatment of conditions found;
 - (c) Case management services as defined in accordance with section 1905(a) (19) or section 1915(g) of the social security act; and
 - (d) Long-term care services, including:
 - (i) Nursing facility services, other than services in an institution for mental diseases, subject to participant cost-sharing;
 - (ii) Home-based and community-based services, subject to federal approval, provided to individuals who require nursing facility level of care who, without home-based and community-based services, would require institutionalization. These services will include community supports, including options for self-determination or family-directed, which will enable individuals to have greater freedom to manage their own care within the determined budget as defined by department rule; and
 - (iii) Personal care services in a participant's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse;
 - (e) Services for persons with developmental disabilities, including:
 - (i) Intermediate care facility services, other than such services in an institution for mental diseases, for persons determined in accordance with section 1902(a) (31) of the social security act to be in need of such care, including such services in a public institution, or distinct part thereof, for persons with intellectual disabilities or persons with related conditions;
 - (ii) Home-based and community-based services, subject to federal approval, provided to individuals who require an intermediate care facility for people with intellectual disabilities (ICF/ID) level of care who, without home-based and community-based services, would require institutionalization. These services will include community supports, ~~including and~~ options for self-determination self-directed or family-directed services, which will enable individuals to have greater freedom to manage their own care within the determined budget as defined by department rule. ~~The department shall respond to requests for~~ allow budget modifications only when needed to obtain or maintain employment or when health and safety issues are identified and meet the criteria as defined in department rule; and
 - (iii) Developmental disability services for children and adults shall be available based on need through state plan services or waiver services as described in department rule. The department shall develop a blended rate covering both individual and group developmental therapy services;
 - (f) Home health services, including:
 - (i) Intermittent or part-time nursing services provided by a home health agency or by a registered nurse when no home health agency exists in the area;
 - (ii) Home health aide services provided by a home health agency; and

- (iii) Physical therapy, occupational therapy or speech pathology and audiology services provided by a home health agency or medical rehabilitation facility;
 - (g) Hospice care in accordance with section 1905(o) of the social security act;
 - (h) Specialized medical equipment and supplies;
 - (i) Medicare cost-sharing, including:
 - (i) Medicare cost-sharing for qualified medicare beneficiaries described in section 1905(p) of the social security act;
 - (ii) Medicare part A premiums for qualified disabled and working individuals described in section 1902(a)(10)(E)(ii) of the social security act;
 - (iii) Medicare part B premiums for specified low-income medicare beneficiaries described in section 1902(a)(10)(E)(iii) of the social security act; and
 - (iv) Medicare part B premiums for qualifying individuals described in section 1902(a)(10)(E)(iv) and subject to section 1933 of the social security act; and
 - (j) Nonemergency medical transportation.
- (4) Specific health benefits for persons over twenty-one (21) years of age who have medicare and medicaid coverage include:
- (a) All services described in subsection (5) of this section, other than if provided under the federal medicare program;
 - (b) All services described in subsection (3) of this section, other than if provided under the federal medicare program;
 - (c) Other services that supplement medicare coverage; and
 - (d) Nonemergency medical transportation.
- (5) Benefits for all medicaid participants, unless specifically limited in subsection (2), (3) or (4) of this section, include the following:
- (a) Health care coverage including, but not limited to, basic inpatient and outpatient medical services, and including:
 - (i) Physicians' services, whether furnished in the office, the patient's home, a hospital, a nursing facility or elsewhere;
 - (ii) Services provided by a physician or other licensed practitioner to prevent disease, disability and other health conditions or their progressions, to prolong life, or to promote physical or mental health; and
 - (iii) Hospital care, including:
 1. Inpatient hospital services other than those services provided in an institution for mental diseases;
 2. Outpatient hospital services; and
 3. Emergency hospital services;
 - (iv) Laboratory and x-ray services;
 - (v) Prescribed drugs;
 - (vi) Family planning services and supplies for individuals of child-bearing age;
 - (vii) Certified pediatric or family nurse practitioners' services;
 - (viii) Emergency medical transportation;
 - (ix) Behavioral health services, including:
 1. Outpatient behavioral health services that are appropriate, delivered by providers that meet national accreditation standards and may include community-based rehabilitation services and case management; and
 2. Inpatient psychiatric facility services whether in a hospital, or for persons under the age of twenty-two (22) years in a freestanding psychiatric facility as permitted by federal law;

- (x) Medical supplies, equipment, and appliances suitable for use in the home;
 - (xi) Physical therapy and speech therapies combined to align with the annual medicare caps; and
 - (xii) Occupational therapy to align with the annual medicare cap;
- (b) Primary care medical homes;
- (c) Dental services. Children shall have access to prevention, diagnosis and treatment services as defined in federal law. Adult coverage shall be limited to medically necessary oral surgery and palliative services and associated diagnostic services. Select covered benefits include: exams, radiographs, periodontal, oral and maxillofacial surgery and adjunctive general services as defined in department rule. Pregnant women, participants on the aged and disabled waiver and the developmental disability waiver shall have access to dental services that reflect evidence-based practice;
- (d) Medical care and any other type of remedial care recognized under Idaho law, furnished by licensed practitioners within the scope of their practice as defined by Idaho law, including:
- (i) Podiatrists' services based on chronic care criteria as defined in department rule;
 - (ii) Optometrists' services based on chronic care criteria as defined in department rule;
 - (iii) Chiropractors' services shall be limited to six (6) visits per year; and
 - (iv) Other practitioners' services, in accordance with department rules;
- (e) Services for individuals with speech, hearing and language disorders as defined in department rule;
- (f) Eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist;
- (g) Services provided by essential providers, including:
- (i) Rural health clinic services and other ambulatory services furnished by a rural health clinic in accordance with section 1905(1) (1) of the social security act;
 - (ii) Federally qualified health center (FQHC) services and other ambulatory services that are covered under the plan and furnished by an FQHC in accordance with section 1905(1) (2) of the social security act;
 - (iii) Indian health services;
 - (iv) District health departments; and
 - (v) The family medicine residency of Idaho and the Idaho state university family medicine residency; and
- (h) Physician, hospital or other services deemed experimental are excluded from coverage. The director may allow coverage of procedures or services deemed investigational if the procedures or services are as cost-effective as traditional, standard treatments.

Approved March 18, 2014

CHAPTER 110
(H.B. No. 495)

AN ACT

RELATING TO THE DAIRY PRODUCTS COMMISSION; AMENDING SECTION 25-3108, IDAHO CODE, TO SPECIFY THAT CERTAIN PROVISIONS ARE NOTWITHSTANDING DESIGNATED LAW, TO REVISE COMPENSATION AND REIMBURSEMENT PROVISIONS AND TO PROVIDE THAT MEMBERS OF THE DAIRY PRODUCTS COMMISSION SHALL FIX THE COMPENSATION AND REIMBURSEMENT THEY SHALL RECEIVE; AND AMENDING SECTION 25-3112, IDAHO CODE, TO REVISE THE TIME IN WHICH THE COMMISSION SHALL FILE A SPECIFIED ANNUAL REPORT WITH DESIGNATED ENTITIES.

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

SECTION 1. That Section 25-3108, Idaho Code, be, and the same is hereby amended to read as follows:

25-3108. SALARY. Notwithstanding the provisions of section 59-509, Idaho Code, members of the commission shall be compensated as provided by section 59-509(h), Idaho Code fix the compensation they shall each receive for their services, not to exceed the sum of one hundred fifty dollars (\$150) per day, and shall fix the reimbursement they shall each receive for their travel and their necessary expenses for each day they shall be away from their place of residence and engaged in the business of their office, subject to the limits provided in section 67-2008, Idaho Code.

SECTION 2. That Section 25-3112, Idaho Code, be, and the same is hereby amended to read as follows:

25-3112. DEPOSIT AND DISBURSEMENT OF FUNDS. (1) Immediately upon receipt, all moneys received by the commission shall be deposited in one or more separate accounts in the name of the commission in one or more banks or trust companies approved under chapter 27, title 67, Idaho Code, as state depositories. The commission shall designate such banks or trust companies. All funds so deposited are hereby continuously appropriated for the purpose of carrying out the provisions of this chapter.

(2) Funds can be withdrawn or paid out of such accounts only upon checks or other orders upon such accounts signed by two (2) officers designated by the commission.

(3) The right is reserved to the state of Idaho to audit the funds of the commission at any time.

(4) ~~On or before January 15 of e~~Each year, during the legislative session, the commission shall file with the senate agricultural affairs committee, the house agricultural affairs committee, the legislative services office, the state controller, and the division of financial management, a report showing the annual income and expenses by standard classification of the commission during the preceding fiscal year. The report shall also include an estimate of income to the commission for the current and next fiscal year and a projection of anticipated expenses by category for the current and next fiscal year. From and after January 15, 1989, the report shall also include a reconciliation between the estimated income and expenses projected and the actual income and expenses of the preceding fiscal year.

(5) All moneys received or expended by the commission shall be audited annually by a certified public accountant designated by the commission, who shall furnish a copy of such audit to the director of legislative services and to the senate agricultural affairs committee and the house agricultural affairs committee. The audit shall be completed within ninety (90) days following the close of the fiscal year.

(6) The expenditures of the commission are expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code.

Approved March 18, 2014

CHAPTER 111
(H.B. No. 519)

AN ACT

RELATING TO HOSPITALIZATION OF MENTALLY ILL; AMENDING SECTION 66-345, IDAHO CODE, TO PROVIDE FOR THE USE OF RESTRAINTS AGAINST THE MEDICAL ADVICE OF A LICENSED PHYSICIAN.

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

SECTION 1. That Section 66-345, Idaho Code, be, and the same is hereby amended to read as follows:

66-345. RESTRAINTS AND SECLUSION. Restraints shall not be applied to a patient nor shall a patient be secluded unless it is determined that such restraint or seclusion is necessary for the patient's safety or for the safety of others. Every instance of a restraint or seclusion of a patient shall be documented in the clinical record of the patient. In addition, every instance of a restraint or seclusion shall be evaluated and the evaluation and reasons for such restraint or seclusion shall be made a part of the clinical record of the patient under the signature of a licensed physician or, as delegated through the bylaws of the hospital's medical or professional staff, other practitioners licensed to practice independently. Whenever a peace officer deems it necessary to apply restraints to a patient while transporting the patient from one (1) facility to another and that restraint is against the medical advice of a licensed physician, the officer shall document the use of restraints in a report to be included in the clinical record.

Approved March 18, 2014

CHAPTER 112
(H.B. No. 521)

AN ACT

RELATING TO EDUCATION; AMENDING CHAPTER 3, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-320, IDAHO CODE, TO PROVIDE FOR A STRATEGIC PLAN, TO ESTABLISH PROVISIONS RELATING TO THE DEVELOPMENT OF A PLAN, TO PROVIDE FOR CERTAIN ASPECTS OF THE PLAN, TO PROVIDE A DATE FOR ADOPTION OF THE PLAN, TO PROVIDE FOR MONITORING PROGRESS AND USE IN EVALUATIONS, TO PROVIDE THAT THE PLAN BE AVAILABLE TO THE PUBLIC, TO PROVIDE FOR DISTRIBUTION OF MONEYS AND TO PROVIDE FOR RULES.

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

SECTION 1. That Chapter 3, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-320, Idaho Code, and to read as follows:

33-320. STRATEGIC PLANNING AND TRAINING. (1) Each school district and public charter school in Idaho shall develop and maintain a strategic plan

that focuses on improving the student performance of the district or public charter school.

(2) (a) The board of trustees and the superintendent shall collaborate on the plan and engage students, parents, educators and the community as appropriate. The board of directors and the administrator of a public charter school shall collaborate on the plan and engage students, parents, educators and the community as appropriate.

(b) The strategic plan shall:

(i) Be data driven, specifically in student outcomes, and shall include, but not be limited to, analyses of demographic data, student achievement and growth data, graduation rates, and college and career readiness;

(ii) Set clear and measurable targets based on student outcomes;

(iii) Include a clearly developed and articulated vision and mission; and

(iv) Include key indicators for monitoring performance.

(c) For the 2014-2015 school year, the strategic plan shall be adopted on or before September 1. The strategic plan must be reviewed and updated annually no later than August 1 every year thereafter.

(d) The board of trustees or the board of directors shall continuously monitor progress toward the goals by utilizing relevant data to measure growth. The progress shall be included in evaluations of the district superintendent or administrator of a public charter school.

(3) The strategic plan must be made available to the public and shall be posted on the school district or charter school website.

(4) Of the moneys appropriated in the public schools educational support program, up to two thousand dollars (\$2,000) shall be distributed to each school district and public charter school to be expended for training purposes for district superintendents and boards of trustees, public charter school administrators and boards of directors. Funds shall be distributed on a reimbursement basis based on a process prescribed by the superintendent of public instruction. Qualified training shall include training for strategic planning, finance, superintendent evaluations, public charter administrator evaluations, ethics and governance.

(5) The state board of education shall be granted rulemaking authority to establish appropriate procedures, qualifications and guidelines for qualified training providers and shall prepare a list of qualified training providers within the state of Idaho.

Approved March 18, 2014

CHAPTER 113
(H.B. No. 530)

AN ACT

RELATING TO THE USE TAX; AMENDING SECTION 63-3621, IDAHO CODE, TO PROVIDE THAT THE USE TAX SHALL NOT APPLY TO CERTAIN DONATIONS OF FOOD OR BEVERAGES, OR BOTH, TO CERTAIN INDIVIDUALS OR ENTITIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-3621, Idaho Code, be, and the same is hereby amended to read as follows:

63-3621. IMPOSITION AND RATE OF THE USE TAX -- EXEMPTIONS. An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property acquired on or after October 1, 2006,

for storage, use, or other consumption in this state at the rate of six percent (6%) of the value of the property, and a recent sales price shall be presumptive evidence of the value of the property unless the property is wireless telecommunications equipment, in which case a recent sales price shall be conclusive evidence of the value of the property.

(a) Every person storing, using, or otherwise consuming, in this state, tangible personal property is liable for the tax. His liability is not extinguished until the tax has been paid to this state except that a receipt from a retailer maintaining a place of business in this state or engaged in business in this state given to the purchaser is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers. A retailer shall not be considered to have stored, used or consumed wireless telecommunications equipment by virtue of giving, selling or otherwise transferring such equipment at a discount as an inducement to a consumer to commence or continue a contract for telecommunications service.

(b) Every retailer engaged in business in this state, and making sales of tangible personal property for the storage, use, or other consumption in this state, not exempted under section 63-3622, Idaho Code, shall, at the time of making the sales or, if storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the state tax commission.

(c) The provisions of this section shall not apply when the retailer pays sales tax on the transaction and collects reimbursement for such sales tax from the customer.

(d) Every retailer engaged in business in this state or maintaining a place of business in this state shall register with the state tax commission and give the name and address of all agents operating in this state, the location of all distributions or sales houses or offices or other places of business in this state, and such other information as the state tax commission may require.

(e) For the purpose of the proper administration of this act and to prevent evasion of the use tax and the duty to collect the use tax, it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use, or other consumption in this state. The burden of proving the sale is tax exempt is upon the person who makes the sale unless he obtains from the purchaser a resale certificate to the effect that the property is purchased for resale or rental. It shall be presumed that sales made to a person who has completed a resale certificate for the seller's records are not taxable and the seller need not collect sales or use taxes unless the tangible personal property purchased is taxable to the purchaser as a matter of law in the particular instance claimed on the resale certificate.

A seller may accept a resale certificate from a purchaser prior to the time of sale, at the time of sale, or at any reasonable time after the sale when necessary to establish the privilege of the exemption. The resale certificate relieves the person selling the property from the burden of proof only if taken from a person who is engaged in the business of selling or renting tangible personal property and who holds the permit provided for by section 63-3620, Idaho Code, or who is a retailer not engaged in business in this state, and who, at the time of purchasing the tangible personal property, intends to sell or rent it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose. Other than as provided elsewhere in this section, when a resale certificate, properly executed, is presented to the seller, the seller has no duty or obligation to collect sales or use taxes in regard to any sales transaction so documented regardless of whether the purchaser properly or improperly claimed an exemption. A seller so relieved of

the obligation to collect tax is also relieved of any liability to the purchaser for failure to collect tax or for making any report or disclosure of information required or permitted under this chapter.

The resale certificate shall bear the name and address of the purchaser, shall be signed by the purchaser or his agent, shall indicate the number of the permit issued to the purchaser, or that the purchaser is an out-of-state retailer, and shall indicate the general character of the tangible personal property sold by the purchaser in the regular course of business. The certificate shall be substantially in such form as the state tax commission may prescribe.

(f) If a purchaser who gives a resale certificate makes any storage or use of the property other than retention, demonstration or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the property is first so stored or used.

(g) Any person violating any provision of this section is guilty of a misdemeanor and punishable by a fine not in excess of one hundred dollars (\$100), and each violation shall constitute a separate offense.

(h) It shall be presumed that tangible personal property shipped or brought to this state by the purchaser was purchased from a retailer, for storage, use or other consumption in this state.

(i) It shall be presumed that tangible personal property delivered outside this state to a purchaser known by the retailer to be a resident of this state was purchased from a retailer for storage, use, or other consumption in this state. This presumption may be controverted by evidence satisfactory to the state tax commission that the property was not purchased for storage, use, or other consumption in this state.

(j) When the tangible personal property subject to use tax has been subjected to a general retail sales or use tax by another state of the United States in an amount equal to or greater than the amount of the Idaho tax, and evidence can be given of such payment, the property will not be subject to Idaho use tax. If the amount paid the other state was less, the property will be subject to use tax to the extent that the Idaho tax exceeds the tax paid to the other state. For the purposes of this subsection, a registration certificate or title issued by another state or subdivision thereof for a vehicle or trailer or a vessel as defined in section 67-7003, Idaho Code, shall be sufficient evidence of payment of a general retail sales or use tax.

(k) The use tax herein imposed shall not apply to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than a cumulative period of time totaling ninety (90) days in any consecutive twelve (12) months, and which is not required to be registered or licensed under the laws of this state. The use tax herein shall also not apply to any use of a motor vehicle which is registered or licensed under the laws of the state of residence of a nonresident student while such nonresident student is enrolled as a full-time student in an institution of postsecondary education that is both physically located in Idaho and recognized as accredited by the state board of education.

(l) The use tax herein imposed shall not apply to the use of household goods, personal effects and personally owned vehicles or personally owned aircraft by a resident of this state if such articles were acquired by such person in another state while a resident of that state and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial. The use tax herein imposed shall not apply to the use of household goods, personal effects and personally owned vehicles or personally owned aircraft by active duty military personnel temporarily assigned in this state and spouses who accompany them if such articles were acquired prior to receipt of orders

to transfer to Idaho or three (3) months prior to moving to Idaho, whichever time period is shorter. For purposes of this subsection, "resident" shall be as defined in section 63-3013 or 63-3013A, Idaho Code.

(m) The use tax herein imposed shall not apply to the storage, use or other consumption of tangible personal property which is or will be incorporated into real property and which has been donated to and has become the property of:

(1) A nonprofit organization as defined in section 63-36220, Idaho Code; or

(2) The state of Idaho; or

(3) Any political subdivision of the state.

This exemption applies whether the tangible personal property is incorporated in real property by the donee, a contractor or subcontractor of the donee, or any other person.

(n) The use tax herein imposed shall not apply to tastings of food and beverages including, but not limited to, wine and beer. For the purposes of this subsection, a tasting of wine and beer shall be defined as the maximum serving allowed by state or federal laws for such occasions provided to a potential customer, at no charge, at a location where like or similar beverages are sold. For nonalcoholic beverages and food, a tasting shall be defined as a sample from a unit available for sale at the tasting location.

(o) The use tax herein imposed shall not apply to donations of food or beverages, or both, to individuals or nonprofit organizations. For the purposes of this section, "nonprofit organization" means those nonprofit entities currently registered with the secretary of state pursuant to section 30-3-2, Idaho Code.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 18, 2014

CHAPTER 114
(H.B. No. 531)

AN ACT

RELATING TO SALES TAX EXEMPTIONS; AMENDING SECTION 63-36220, IDAHO CODE, TO ADD CAMP RAINBOW GOLD TO THE DEFINITION OF HEALTH-RELATED ENTITIES AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-36220, Idaho Code, be, and the same is hereby amended to read as follows:

63-36220. EXEMPT PRIVATE AND PUBLIC ORGANIZATIONS. (1) There are exempted from the taxes imposed by this chapter:

(a) Sales to or purchases by hospitals, health-related entities, educational institutions, forest protective associations and canal companies which are nonprofit organizations; and

(b) Donations to, sales to, and purchases by the Idaho Foodbank Warehouse, Inc.; and

(c) Donations to, sales to, and purchases by food banks or soup kitchens of food or other tangible personal property used by food banks or soup kitchens in the growing, storage, preparation or service of food, but not including motor vehicles or trailers; and

- (d) Sales of clothes to, donations of clothes to, and purchases of clothes by nonsale clothiers; and
- (e) Sales to or purchases by centers for independent living; and
- (f) Sales to or purchases by the state of Idaho and its agencies and its political subdivisions; and
- (g) Sales to or purchases by volunteer fire departments or licensed emergency medical service agencies; and
- (h) Sales to or purchases by a qualifying senior citizen center; and
- (i) Sales to or purchases by the Blind Services Foundation, Inc.; and
- (j) Donations to, sales to or purchases by the Advocates for Survivors of Domestic Violence and Sexual Assault, Inc., a nonprofit corporation; and
- (k) Sales to or purchases by nonprofit organizations offering free dental clinic services to children; and
- (l) Admissions to and purchases by museums, as defined in subsection (2) of this section.
- (2) As used in this section, these words shall have the following meanings:

- (a) "Educational institution" shall mean nonprofit colleges, universities, public charter schools organized pursuant to chapter 52, title 33, Idaho Code, the Idaho digital learning academy established pursuant to chapter 55, title 33, Idaho Code, and other primary and secondary schools, the income of which is devoted solely to education and in which systematic instruction in the usual branches of learning is given. This definition does not include schools primarily teaching business, dancing, dramatics, music, cosmetology, writing, gymnastics, exercise and other special accomplishments nor parent-teacher associations, parent groups, alumni or other auxiliary organizations with purposes related to the educational function of an institution or collective group of institutions.
- (b) "Hospital" shall include nonprofit institutions licensed by the state for the care of ill persons. It shall not extend to nursing homes or similar institutions.
- (c) "Health-related entities" shall mean the Idaho Cystic Fibrosis Foundation, Idaho Epilepsy League, Idaho Lung Association, March of Dimes, American Cancer Society, Camp Rainbow Gold, Mental Health Association, The Arc, The Children's Home Society of Idaho, American Heart Association, Idaho Ronald McDonald House, United Cerebral Palsy, Arthritis Foundation, Muscular Dystrophy Foundation, National Multiple Sclerosis Society, Rocky Mountain Kidney Association, American Diabetes Association, Easter Seals, Idaho Community Action Agencies, Idaho Primary Care Association and community health centers who are members of the Idaho Primary Care Association, the Idaho Diabetes Youth Programs, Special Olympics Idaho, the Idaho Women's and Children's Alliance, and the Family Services Alliance of Southeast Idaho, together with said entities' local or regional chapters or divisions.
- (d) "Canal companies" shall include nonprofit corporations which are incorporated solely for the purpose of operating and maintaining and are engaged solely in operation and maintenance of dams, reservoirs, canals, lateral and drainage ditches, pumps or pumping plants.
- (e) "Forest protective associations" shall mean associations whose purpose is the furnishing, operating and maintaining of a protective system for the detection, prevention and suppression of forest or range fires. Forest protective associations shall include only those associations with which the state of Idaho has contracted or become a member of pursuant to chapter 1, title 38, Idaho Code.

(f) "Food banks or soup kitchens" shall mean any nonprofit corporation or association, other than the Idaho Foodbank Warehouse, Inc., one of whose regular activities is the furnishing or providing of food or food products to others without charge.

(g) "Nonsale clothier" shall mean any nonprofit corporation or association, one of whose primary purposes is the furnishing or providing of clothes to others without charge.

(h) "Clothes" shall mean garments in general, designed or intended to be worn by humans and shall include footwear in addition to wearing apparel.

(i) "Center for independent living" shall mean a private, nonprofit, nonresidential organization in which at least fifty-one percent (51%) of the principal governing board, management and staff are individuals with disabilities and that:

(i) Is designed and operated within a local community by individuals with disabilities;

(ii) Provides an array of independent living services and programs; and

(iii) Is cross-disability.

(j) "Political subdivision" means:

(i) A governmental organization which:

1. Embraces a certain territory,

2. Is organized for public advantage and not in the interest of private individuals or classes,

3. Has been delegated functions of government, and

4. Has the statutory power to levy taxes; or

(ii) A public health district created by section 39-408, Idaho Code; or

(iii) A soil conservation district as defined in section 22-2717, Idaho Code; or

(iv) A drainage district created pursuant to chapter 29, title 42, Idaho Code; or

(v) An irrigation district created pursuant to title 43, Idaho Code; or

(vi) A state grazing board created by section 57-1204, Idaho Code; or

(vii) A water measurement district created pursuant to section 42-705 or 42-706, Idaho Code; or

(viii) A ground water management district created pursuant to chapter 51, title 42, Idaho Code.

(k) "Agency of the state of Idaho" shall mean an office or organization created by the constitution or statutes of this state and constituting a component part of the executive, judicial or legislative branch of the government of this state.

(l) "Volunteer fire department" means an entity exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code and which primarily provides fire protection or fire prevention on a not-for-profit basis to surrounding residents.

(m) "Licensed emergency medical service agency ~~(EMS)~~" means an emergency medical service (EMS) licensed by the EMS bureau of the department of health and welfare and which is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code and which provides emergency medical services on a not-for-profit basis to surrounding residents.

(n) "Qualifying senior citizen center" means an entity exempt from income tax pursuant to section 501(c)(3) of the Internal Revenue Code and which is a community facility for the organization and provision of a broad spectrum of services, which shall include provision of health, including mental health, social, nutritional, and educational services

and the provision of facilities for recreational activities for older individuals.

(o) "Museum" means a public institution or an entity exempt from income tax pursuant to section 501(c) (3) of the Internal Revenue Code, which stores, preserves and exhibits objects of art, history, science or other objects of historical, educational or cultural value on a permanent basis in a building, portion of a building or outdoor location and which provides museum services to the public on a regular basis.

(3) The exemption granted by subsection (1) (f) of this section does not include any association or other organization whose members are political subdivisions or state agencies unless the organization is expressly created under the joint powers provision of sections 67-2328 through 67-2333, Idaho Code.

(4) The exemptions granted by subsection (1) of this section do not include the use of tangible personal property by a contractor used to improve real property of an exempt entity when such use is within the definition provided by section 63-3615(b), Idaho Code, whether the use tax liability is included in a contract total or stated separately in a contract.

(5) There is exempted from the taxes imposed in this chapter, the renting of a place to sleep to an individual by the Idaho Ronald McDonald House.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 18, 2014

CHAPTER 115
(H.B. No. 547)

AN ACT

RELATING TO THE DISTRIBUTION OF CIGARETTE TAX MONEYS; AMENDING SECTION 40-718, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO CERTAIN MONEYS INCLUDED IN THE GARVEE DEBT SERVICE FUND; AMENDING SECTION 63-2506, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN MONEYS SUBJECT TO APPROPRIATION TO THE PUBLIC SCHOOL INCOME FUND AND THE DEPARTMENT OF JUVENILE CORRECTIONS; AMENDING SECTION 63-2520, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DISTRIBUTION OF CERTAIN REVENUES AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 57-1702, IDAHO CODE, TO REVISE A TERM.

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

SECTION 1. That Section 40-718, Idaho Code, be, and the same is hereby amended to read as follows:

40-718. GARVEE FUNDS ESTABLISHED -- CAPITAL PROJECT FUND -- DEBT SERVICE FUND. (1) There is established in the state treasury a fund known as the "GARVEE Capital Project Fund" which shall include:

(a) Any draw by the board of proceeds from the transportation bonds or notes issued by the Idaho housing and finance association in accordance with chapter 62, title 67, Idaho Code.

(b) Interest earned on the investment of idle moneys in the GARVEE capital project fund shall be paid to the GARVEE capital project fund.

Disbursements from this fund shall be made for projects in accordance with chapter 3, title 40, Idaho Code. All moneys in the fund are hereby continuously appropriated to the department.

(2) There is established in the state treasury a fund known as the "GARVEE Debt Service Fund" for the purpose of paying the principal, interest and other amounts required for transportation bonds or notes of the Idaho housing and finance association in accordance with chapter 62, title 67, Idaho Code. The fund shall include:

(a) Amounts transferred from the state highway account upon certification by the Idaho housing and finance association to the state controller, state treasurer and the board as necessary for payment of principal, interest and other amounts required for transportation bonds or notes.

(b) Amounts distributed pursuant to section 63-2520(b)(5), Idaho Code. Provided that such moneys distributed to the GARVEE debt service fund pursuant to this paragraph shall be used in combination with the amounts provided for in paragraph (a) of this subsection and shall be used for payment of principal, interest and other amounts required for transportation bonds or notes.

(c) Interest earned on the investment of idle moneys in the GARVEE debt service fund shall be paid to the GARVEE debt service fund.

From moneys within this fund, there are hereby continuously appropriated such amounts as, from time to time, shall be certified by the Idaho housing and finance association to the state controller, state treasurer and the board as necessary for payment of principal, interest and other amounts required for transportation bonds or notes of the Idaho housing and finance association in accordance with chapter 62, title 67, Idaho Code, which amounts shall be paid over as directed by the association.

SECTION 2. That Section 63-2506, Idaho Code, be, and the same is hereby amended to read as follows:

63-2506. IMPOSITION OF TAX. (1) On and after July 1, 2005, a tax upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of cigarettes is hereby imposed at the rate of fifty-seven cents (57¢) per package of twenty (20) cigarettes, which tax shall be paid by the wholesaler, and collected by the state tax commission. 5.1746¢ of the tax collected per package of twenty (20) cigarettes Beginning July 1, 2014, and every year thereafter, of the tax collected pursuant to this subsection, three million three hundred fifteen thousand dollars (\$3,315,000) shall be subject to appropriation to the public school income fund to be utilized to facilitate and provide substance abuse programs in the public school system. 5.1746¢ of the tax collected per package of twenty (20) cigarettes Beginning July 1, 2014, and every year thereafter, of the tax collected pursuant to this subsection, three million three hundred fifteen thousand dollars (\$3,315,000) shall be subject to appropriation to the department of juvenile corrections for distribution to the counties to be utilized for county juvenile probation services.

(2) Appropriated funds shall be distributed quarterly to the counties based upon the percentage the population of the county bears to the population of the state as a whole.

(3) The remaining moneys collected and those moneys not appropriated under the provisions of this section shall be distributed as specified in section 63-2520, Idaho Code.

SECTION 3. That Section 63-2520, Idaho Code, be, and the same is hereby amended to read as follows:

63-2520. DISTRIBUTION OF MONEYS COLLECTED. Revenues received from the taxes imposed by this chapter, and any revenues received from licenses, permits, penalties, interest, or deficiency additions, shall be distributed by the state tax commission as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized under this chapter by the state tax commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(b) On and after July 1, 2005 ~~2014~~, the balance remaining with the state treasurer after deducting the amount described in subsection (a) of this section shall be distributed as follows:

(1) ~~17.3% of such balance~~ Five million dollars (\$5,000,000) shall be distributed to the permanent building fund created by section 57-1108, Idaho Code.

(2) ~~0.4% of such balance~~ One hundred twenty thousand dollars (\$120,000) shall be distributed to the central cancer registry fund and is subject to appropriation as provided for in chapter 35, title 67, Idaho Code. ~~The amount of money so distributed to the central cancer registry fund shall not exceed the fiscal year's appropriation, and at such time as the appropriation has been distributed to the central cancer registry fund during any fiscal year, all such distributions in excess of the appropriation shall be made instead to the general fund of the state of Idaho.~~

(3) ~~1% of such balance~~ Three hundred thousand dollars (\$300,000) shall be distributed to the cancer control account fund created by section 57-1702, Idaho Code, and is subject to appropriation as provided for in chapter 35, title 67, Idaho Code. ~~Revenues received in the cancer control account shall be paid over to the state treasurer by the state tax commission to be distributed as follows:~~

~~(i) Such amounts as are appropriated for purposes specified in section 57-1702, Idaho Code, shall be expended as appropriated;~~

~~(ii) Any balance remaining in the cancer control account on June 30 of any fiscal year after the amounts withdrawn by appropriation have been deducted, shall be reserved for transfer to the general fund on July 1 and the state controller shall order such transfer.~~

(4) An amount equal to the annual general fund appropriation for bond levy equalization, less the amount distributed under section 67-7434(21), Idaho Code, if applicable, pursuant to section 33-906, Idaho Code, shall be annually distributed to the general fund.

(5) All remaining moneys shall be distributed as follows: ~~For the fiscal year commencing July 1, 2005, and ending June 30, 2006, all moneys shall be distributed to the economic recovery reserve fund created by section 67-3520, Idaho Code.~~ For fiscal years on and after July 1, 2006, all moneys shall be distributed to the permanent building fund with the moneys to be used for the repair, remodel and restoration of the state capitol building and state facilities pertaining to the capitol restoration until such time as the capitol restoration is adequately funded as certified by the director of the department of administration. Thereafter, all remaining moneys shall be distributed in the following priority order:

(i) Four million seven hundred thousand dollars (\$4,700,000) to be used for the purpose of paying the state match as required for federal funds committed to pay the annual scheduled GARVEE debt service until such time as the Idaho housing and finance association certifies that any such bonds or notes are adequately paid for, in accordance with chapter 62, title 67, Idaho Code;

(ii) Five million dollars (\$5,000,000) to the secondary aquifer planning, management and implementation fund as established in section 42-1780, Idaho Code. Such moneys shall be used for statewide aquifer stabilization; and

(iii) All remaining moneys following distributions pursuant to subparagraphs (i) and (ii) of this paragraph shall be distributed to the state highway account for the purpose of paying for the

maintenance and repair (and including purchase of rights-of-way) of the state highway system.

~~Thereafter all moneys shall be distributed to the economic recovery reserve fund created by section 67-3520, Idaho Code.~~

SECTION 4. That Section 57-1702, Idaho Code, be, and the same is hereby amended to read as follows:

57-1702. CANCER CONTROL ACCOUNT FUND. There shall be established in the dedicated fund in the state treasury the cancer control account fund, to which shall be credited the revenues derived from the tax distributed by subsection (b) (3) of section 63-2520, Idaho Code. All moneys now or hereafter in the cancer control account fund, to the extent appropriated, are hereby dedicated for the purpose of contracting for and obtaining the services to promote cancer control for the citizens of Idaho, through research, education, screening and treatment. The director of the department of health and welfare is charged with the administration of moneys appropriated from the account fund unless otherwise provided by law.

Approved March 18, 2014

CHAPTER 116
(H.B. No. 557)

AN ACT

RELATING TO EDUCATION AND STAFF ALLOWANCE; REPEALING SECTIONS 2, 3 AND 4, CHAPTER 349, LAWS OF 2013, RELATING TO STAFF ALLOWANCE AND EFFECTIVE DATES; AND AMENDING SECTION 33-1004, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES, TO REMOVE LANGUAGE RELATING TO A CERTAIN TIME PERIOD AND TO REVISE PROVISIONS RELATING TO A DISTRICT EMPLOYING FEWER POSITIONS THAN FUNDED.

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

SECTION 1. That Sections 2, 3 and 4, Chapter 349, Laws of 2013, be, and the same are hereby repealed.

SECTION 2. That Section 33-1004, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004. STAFF ALLOWANCE. For each school district, a staff allowance shall be determined as follows:

(1) Using the daily attendance reports that have been submitted for computing the February 15 apportionment of state funds as provided in section 33-1009, Idaho Code, determine the total support units for the district in the manner provided in section 33-1002 (6) (a), Idaho Code;

(2) Determine the instructional staff allowance by multiplying the support units by 1.1. A district must demonstrate that it actually employs the number of certificated instructional staff allowed, except as provided in subsection (5) (f) ~~and (g) and (h)~~ of this section. If the district does not employ the number allowed, the staff allowance shall be reduced to the actual number employed, except as provided in subsection (5) (f) ~~and (g) and (h)~~ of this section;

(3) Determine the administrative staff allowance by multiplying the support units by .075;

(4) Determine the classified staff allowance by multiplying the support units by .375;

(5) Additional conditions governing staff allowance:

(a) In determining the number of staff in subsections (2), (3) and (4) of this section, a district may contract separately for services to be rendered by nondistrict employees and such employees may be counted in the staff allowance. A "nondistrict employee" means a person for whom the school district does not pay the employer's obligations for employee benefits. When a district contracts for the services of a nondistrict employee, only the salary portion of the contract shall be allowable for computations.

(b) If there are circumstances preventing eligible use of staff allowance to which a district is entitled as provided in subsections (2) and (3) of this section, an appeal may be filed with the state department of education outlining the reasons and proposed alternative use of these funds, and a waiver may be granted.

(c) For any district with less than forty (40) support units:

(i) The instructional staff allowance shall be calculated applying the actual number of support units. If the actual instructional staff employed in the school year is greater than the instructional staff allowance, then the instructional staff allowance shall be increased by one-half (1/2) staff allowance; and

(ii) The administrative staff allowance shall be calculated applying the actual number of support units. If the actual administrative staff employed in the school year is greater than the administrative staff allowance, then the administrative staff allowance shall be increased by one-half (1/2) staff allowance.

(iii) Additionally, for any district with less than twenty (20) support units, the instructional staff allowance shall be calculated applying the actual number of support units. If the number of instructional staff employed in the school year is greater than the instructional staff allowance, the staff allowance shall be increased as provided in subparagraphs (i) and (ii) of this paragraph, and by an additional one-half (1/2) instructional staff allowance.

(d) For any school district with one (1) or more separate secondary schools serving grades nine (9) through twelve (12), the instructional staff allowance shall be increased by two (2) additional instructional staff allowances for each such separate secondary school.

(e) Only instructional, administrative and classified personnel compensated by the school district from the general maintenance and operation fund of the district shall be included in the calculation of staff allowance or in any other calculations based upon staff, including determination of the experience and education multiplier, the reporting requirements, or the district's salary-based apportionment calculation. No food service staff or transportation staff shall be included in the staff allowance.

(f) A district may utilize up to fifteen percent (15%) of the moneys associated with positions funded pursuant to subsection (2) of this section to pay another school district or public charter school for instructional services or to defray the cost of providing virtual education coursework, including virtual dual credit coursework, without a reduction in the number of funded positions being imposed.

~~(g) For the period July 1, 2009, through June 30, 2011, only, a district may shift up to five percent (5%) of the positions funded pursuant to subsection (2) of this section to federal funds, without a reduction in the number of funded positions being imposed.~~

~~(h) A district may employ nine and one-half percent (9.5%) fewer positions than funded pursuant to subsection (2) of this section, without a reduction in the number of funded positions being imposed. Beginning in fiscal year 2016, this figure shall be reduced by one percent (1%) each~~

year for each school district in which the average class size, as determined from prior fiscal year data reported to the state department of education, was at least one (1) student greater than the statewide average class size. The state department of education shall report to the legislature every February, beginning in 2015, on the reductions scheduled to take place in this figure, by school district, in the ensuing fiscal year.

(6) In the event that the staff allowance in any category is insufficient to meet accreditation standards, a district may appeal to the state board of education, demonstrating the insufficiency, and the state board may grant a waiver authorizing sufficient additional staff to be included within the staff allowance to meet accreditation standards. Such a waiver shall be limited to one (1) year, but may be renewed upon showing of continuing justification.

(7) A district may utilize a portion of the instructional staff allowance provided for in this section for kindergarten teachers to visit the parents or guardians of students during the first week of the kindergarten school year. Such visits may take place at school, at the student's home or at another location agreed to by the teacher and parents or guardians. The purpose of such visits is to help strengthen the working relationship between the teacher, the parents or guardians, and the student. The visits should be used as an opportunity to help establish the teacher's expectations of the student. The visit should also provide an opportunity for the parents or guardians to explain their expectations. The amount of moneys to be expended for such visits by the district may not exceed the amount equal to one (1) week of instructional staff allowance computed for kindergarten instructors in the district.

Approved March 18, 2014

CHAPTER 117
(S.B. No. 1300)

AN ACT

RELATING TO COUNTIES; AMENDING SECTION 31-836, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE LEASE OF A HOSPITAL BY THE BOARD OF COUNTY COMMISSIONERS.

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

SECTION 1. That Section 31-836, Idaho Code, be, and the same is hereby amended to read as follows:

31-836. LEASE OF COUNTY PROPERTY. Except as otherwise provided by law, the board of county commissioners may lease any property belonging to the county:

(1) Without public auction for a term not exceeding five (5) years at such rental as may be determined upon by the unanimous vote of such board, or at public auction to the highest bidder for a term not exceeding thirty (30) years. Rents shall be paid annually in advance provided, however, that the provision requiring the payment of rent in advance shall not apply to a lease to the federal or state government, a municipal corporation of this state, or any governmental agency or department.

(2) Any hospital or hospital grounds or portions thereof to be used in conjunction with hospital operations or hospital equipment belonging to the county may be leased by the board without public auction for a term not exceeding twenty thirty-five (2035) years; or any property suitable for a shelter intended to house victims of sexual or domestic violence

which property belonging to the county may be leased by the board without public auction to any nonprofit corporation or association organized for the purpose of erecting and maintaining a shelter to house victims of sexual or domestic violence for a term not exceeding twenty (20) years; and, provided further, that the county, either as lessor or lessee, may enter into any lease or other transaction concerning any property with the Idaho health facilities authority for any term not to exceed ninety-nine (99) years.

(3) Any property belonging to the county may be leased by the board without public auction for a term not to exceed thirty (30) years, to be used for an industrial park in conjunction with economic development purposes. An industrial park for purposes of this section means facilities for manufacturing, processing, production, assembly warehousing or activities associated therewith.

(4) Without public auction the board of county commissioners may lease any property belonging to the county and not necessary for its use to the state of Idaho or any political subdivision thereof for any public purpose, to any nonprofit corporation or association organized for the purpose of erecting and maintaining thereon any play field, recreation park or stadium to serve as a memorial to the living or deceased soldiers, sailors and marines of an armed conflict entered into by the United States, or to any hospital district organized under chapter 13, title 39, Idaho Code, for use in furthering the purposes of said district or to any nonprofit corporation or association organized for the purpose of erecting and maintaining an animal shelter. Such lease may be for any term not to exceed ninety-nine (99) years, may provide for only a nominal rental to the county and shall, by its provisions, terminate when the property so leased ceases to be used for any public purpose, as an animal shelter, as a play field, recreation park or stadium serving as a memorial, or by the hospital district for its purposes. Nothing in this subsection shall prohibit the naming or title sponsorship of any play field, recreation park or stadium erected and maintained as a memorial as provided in this subsection as long as the play field, recreation park or stadium continues to serve as such memorial.

Approved March 18, 2014

CHAPTER 118
(S.B. No. 1365)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE LOTTERY FOR FISCAL YEAR 2015; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING LEGISLATIVE INTENT; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Idaho State Lottery from the State Lottery Fund, the following amounts to be expended for the designated expense classes, for the period July 1, 2014, through June 30, 2015:

FOR:	
Personnel Costs	\$2,890,400
Operating Expenditures	2,616,600
Capital Outlay	<u>120,700</u>
TOTAL	\$5,627,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho State Lottery is authorized no more than forty-seven (47) full-time equivalent positions at any point during the period July 1, 2014, through June 30, 2015, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. LEGISLATIVE INTENT. It is the intent of the Legislature that amounts necessary to pay prizes, retailer commissions, advertising and promotional costs and gaming supplier vendor fees based on sales shall be continuously appropriated to the Idaho State Lottery under the provisions of Section 67-7428, Idaho Code.

SECTION 4. EMPLOYEE COMPENSATION. It is the intent of the Legislature, working cooperatively with the Governor's Office, the Division of Human Resources, and the Division of Financial Management, to progress toward the goal of funding a competitive salary and benefit package that will attract qualified applicants, retain employees committed to public service excellence, motivate employees to maintain high standards of productivity, and reward employees for outstanding performance by:

- 1) Adjusting the compensation schedule upwards by 1% to move the salary structure toward market; and
- 2) Continuing the job classifications that are currently on payline exception to address specific recruitment or retention issues; and
- 3) Funding an ongoing 1% salary increase for state employees, and funding the equivalent of a one-time 1% bonus for state employees, based upon employee merit, with flexibility in distribution as determined by the agency directors.

The Legislature also finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees and also to target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 18, 2014

CHAPTER 119
(S.B. No. 1366)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2015; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Division of Building Safety, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
State Regulatory				
Fund	\$7,889,200	\$1,789,400	\$259,300	\$9,937,900
Miscellaneous Revenue/Industrial Safety				
Fund	639,400	90,800	16,500	746,700
Miscellaneous Revenue/Logging				
Fund	341,600	69,300	27,500	438,400
Federal Grant				
Fund	<u>38,300</u>	<u>5,800</u>	<u>0</u>	<u>44,100</u>
TOTAL	\$8,908,500	\$1,955,300	\$303,300	\$11,167,100

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Building Safety is authorized no more than one hundred twenty-one (121) full-time equivalent positions at any point during the period July 1, 2014, through June 30, 2015, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. It is the intent of the Legislature, working cooperatively with the Governor's Office, the Division of Human Resources, and the Division of Financial Management, to progress toward the goal of funding a competitive salary and benefit package that will attract qualified applicants, retain employees committed to public service excellence, motivate employees to maintain high standards of productivity, and reward employees for outstanding performance by:

- 1) Adjusting the compensation schedule upwards by 1% to move the salary structure toward market; and
- 2) Continuing the job classifications that are currently on payline exception to address specific recruitment or retention issues; and
- 3) Funding an ongoing 1% salary increase for state employees, and funding the equivalent of a one-time 1% bonus for state employees, based upon employee merit, with flexibility in distribution as determined by the agency directors.

The Legislature also finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees and also to target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 18, 2014

CHAPTER 120
(S.B. No. 1221, As Amended)

AN ACT

RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1602, IDAHO CODE, TO DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1617, IDAHO CODE, TO REVISE PROVISIONS RELATING TO INTERAGENCY MULTIDISCIPLINARY TEAMS AND TRAINING REQUIREMENTS FOR TEAM MEMBERS; AMENDING SECTION 16-1618, IDAHO CODE, TO PROVIDE THAT ALL INVESTIGATIVE OR RISK ASSESSMENT INTERVIEWS OF ALLEGED VICTIMS OF CHILD ABUSE CONDUCTED BY PERSONNEL OF CHILD ADVOCACY CENTERS WILL BE DOCUMENTED BY AUDIO OR VIDEO TAPING; AND AMENDING SECTION 16-2002, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 16-1602, Idaho Code, be, and the same is hereby amended to read as follows:

16-1602. DEFINITIONS. For purposes of this chapter:

- (1) "Abused" means any case in which a child has been the victim of:
 - (a) Conduct or omission resulting in skin bruising, bleeding, malnutrition, burns, fracture of any bone, subdural hematoma, soft tissue swelling, failure to thrive or death, and such condition or death is not justifiably explained, or where the history given concerning such condition or death is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence; or
 - (b) Sexual conduct, including rape, molestation, incest, prostitution, obscene or pornographic photographing, filming or depiction for commercial purposes, or other similar forms of sexual exploitation harming or threatening the child's health or welfare or mental injury to the child.
- (2) "Abandoned" means the failure of the parent to maintain a normal parental relationship with his child including, but not limited to, reasonable support or regular personal contact. Failure to maintain this relationship without just cause for a period of one (1) year shall constitute prima facie evidence of abandonment.
- (3) "Adaptive equipment" means any piece of equipment or any item that is used to increase, maintain or improve the parenting capabilities of a parent with a disability.
- (4) "Adjudicatory hearing" means a hearing to determine:
 - (a) Whether the child comes under the jurisdiction of the court pursuant to the provisions of this chapter;

(b) Whether continuation of the child in the home would be contrary to the child's welfare and whether the best interest of the child requires protective supervision or vesting legal custody of the child in an authorized agency.

(5) "Aggravated circumstances" includes, but are is not limited to:

(a) Circumstances in which the parent has engaged in any of the following:

(i) Abandonment, chronic abuse or chronic neglect of the child. Chronic neglect or chronic abuse of a child shall consist of abuse or neglect that is so extreme or repetitious as to indicate that return of the child to the home would result in unacceptable risk to the health and welfare of the child.

(ii) Sexual abuse against a child of the parent. Sexual abuse, for the purposes of this section, includes any conduct described in section 18-1506, 18-1506A, 18-1507, 18-1508, 18-1508A, 18-6101, 18-6108 or 18-6608, Idaho Code.

(iii) Torture of a child; any conduct described in the code sections listed in section 18-8303(1), Idaho Code; battery or an injury to a child that results in serious or great bodily injury to a child; voluntary manslaughter of a child, or aiding or abetting such voluntary manslaughter, soliciting such voluntary manslaughter or attempting or conspiring to commit such voluntary manslaughter;

(b) The parent has committed murder, aided or abetted a murder, solicited a murder or attempted or conspired to commit murder; or

(c) The parental rights of the parent to another child have been terminated involuntarily.

(6) "Authorized agency" means the department, a local agency, a person, an organization, corporation, benevolent society or association licensed or approved by the department or the court to receive children for control, care, maintenance or placement.

(7) "Case plan hearing" means a hearing to approve, modify or reject the case plan as provided in section 16-1621, Idaho Code.

(8) "Child" means an individual who is under the age of eighteen (18) years.

(9) "Child advocacy center" or "CAC" means an organization that adheres to national best practice standards established by the national membership and accrediting body for children's advocacy centers and that promotes a comprehensive and coordinated multidisciplinary team response to allegations of child abuse by maintaining a child-friendly facility at which appropriate services are provided. These services may include forensic interviews, forensic medical examinations, mental health services and other related victim services.

(10) "Circumstances of the child" includes, but is not limited to, the joint legal custody or joint physical custody of the child.

(101) "Commit" means to transfer legal and physical custody.

(112) "Concurrent planning" means a planning model that prepares for and implements different outcomes at the same time.

(123) "Court" means district court or magistrate's division thereof, or if the context requires, a magistrate or judge thereof.

(134) "Custodian" means a person, other than a parent or legal guardian, to whom legal or joint legal custody of the child has been given by court order.

(145) "Department" means the department of health and welfare and its authorized representatives.

(156) "Disability" means, with respect to an individual, any mental or physical impairment which substantially limits one (1) or more major life activity of the individual including, but not limited to, self-care, manual tasks, walking, seeing, hearing, speaking, learning or working, or a

record of such an impairment, or being regarded as having such an impairment. Disability shall not include transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, other sexual behavior disorders, or substance use disorders, compulsive gambling, kleptomania or pyromania. Sexual preference or orientation is not considered an impairment or disability. Whether an impairment substantially limits a major life activity shall be determined without consideration of the effect of corrective or mitigating measures used to reduce the effects of the impairment.

(167) "Family or household member" shall have the same meaning as in section 39-6303(6), Idaho Code.

(178) "Foster care" means twenty-four (24) hour substitute parental care for children placed away from their parents or guardians by persons who may or may not be related to the children and for whom the state agency has placement and care responsibility.

(189) "Grant administrator" means the supreme court or any organization or agency as may be designated by the supreme court in accordance with such procedures as may be adopted by the supreme court. The grant administrator shall administer funds from the guardian ad litem account in accordance with the provisions of this chapter.

(1920) "Guardian ad litem" means a person appointed by the court pursuant to a guardian ad litem volunteer program to act as special advocate for a child under this chapter.

(201) "Guardian ad litem coordinator" means a person or entity receiving moneys from the grant administrator for the purpose of carrying out any of the duties set forth in section 16-1632, Idaho Code.

(212) "Guardian ad litem program" means the program to recruit, train and coordinate volunteer persons to serve as guardians ad litem for abused, neglected or abandoned children.

(223) "Homeless," as used in this chapter, shall mean that the child is without adequate shelter or other living facilities, and the lack of such shelter or other living facilities poses a threat to the health, safety or well-being of the child.

(24) "Idaho network of children's advocacy centers" means an organization that provides education and technical assistance to child advocacy centers and to interagency multidisciplinary teams developed pursuant to section 16-1617, Idaho Code.

(235) "Law enforcement agency" means a city police department, the prosecuting attorney of any county, state law enforcement officers, or the office of a sheriff of any county.

(246) "Legal custody" means a relationship created by court order, which vests in a custodian the following rights and responsibilities:

(a) To have physical custody and control of the child, and to determine where and with whom the child shall live.

(b) To supply the child with food, clothing, shelter and incidental necessities.

(c) To provide the child with care, education and discipline.

(d) To authorize ordinary medical, dental, psychiatric, psychological, or other remedial care and treatment for the child, including care and treatment in a facility with a program of services for children; and to authorize surgery if the surgery is deemed by two (2) physicians licensed to practice in this state to be necessary for the child.

(e) Where the parents share legal custody, the custodian may be vested with the custody previously held by either or both parents.

(257) "Mental injury" means a substantial impairment in the intellectual or psychological ability of a child to function within a normal range of performance and/or behavior, for short or long terms.

(268) "Neglected" means a child:

(a) Who is without proper parental care and control, or subsistence, medical or other care or control necessary for his well-being because

of the conduct or omission of his parents, guardian or other custodian or their neglect or refusal to provide them; however, no child whose parent or guardian chooses for such child treatment by prayers through spiritual means alone in lieu of medical treatment shall be deemed for that reason alone to be neglected or lack parental care necessary for his health and well-being, but this subsection shall not prevent the court from acting pursuant to section 16-1627, Idaho Code; or

(b) Whose parents, guardian or other custodian are unable to discharge their responsibilities to and for the child and, as a result of such inability, the child lacks the parental care necessary for his health, safety or well-being; or

(c) Who has been placed for care or adoption in violation of law; or

(d) Who is without proper education because of the failure to comply with section 33-202, Idaho Code.

(279) "Permanency hearing" means a hearing to review, approve, reject or modify the permanency plan of the department, and review reasonable efforts in accomplishing the permanency plan.

(2830) "Permanency plan" means a plan for a continuous residence and maintenance of nurturing relationships during the child's minority.

(2931) "Protective order" means an order issued by the court in a child protection case, prior to the adjudicatory hearing, to enable the child to remain in the home pursuant to section 16-1615(5) (f), Idaho Code. Such an order shall be in the same form and have the same effect as a domestic violence protection order issued pursuant to chapter 63, title 39, Idaho Code. A protective order shall be for a period not to exceed three (3) months unless otherwise stated in the order.

(302) "Protective supervision" is a legal status created by court order in a child protective case whereby the child is in the legal custody of his or her parent(s), guardian(s) or other legal custodian(s), subject to supervision by the department.

(313) "Relative" means a child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, first cousin, sibling and half-sibling.

(324) "Residual parental rights and responsibilities" means those rights and responsibilities remaining with the parents after the transfer of legal custody including, but not necessarily limited to, the right of visitation, the right to consent to adoption, the right to determine religious affiliation, the right to family counseling when beneficial, and the responsibility for support.

(335) "Shelter care" means places designated by the department for temporary care of children pending court disposition or placement.

(346) "Supportive services," as used in this chapter, shall mean services which assist parents with a disability to compensate for those aspects of their disability which affect their ability to care for their child and which will enable them to discharge their parental responsibilities. The term includes specialized or adapted training, evaluations or assistance with effectively using adaptive equipment and accommodations which allow parents with a disability to benefit from other services including, but not limited to, Braille texts or sign language interpreters.

SECTION 2. That Section 16-1617, Idaho Code, be, and the same is hereby amended to read as follows:

16-1617. INVESTIGATION BY MULTIDISCIPLINARY TEAMS. (1) ~~By January 1, 1997,~~ ~~the~~ prosecuting attorney in each county shall be responsible for the development of an interagency multidisciplinary team or teams for investigation of child abuse and neglect referrals within each county. The teams shall consist of, but not be limited to, law enforcement personnel, department of health and welfare child protection risk assessment staff, child ad-

vocacy center staff where such staff is available in the county, a representative of the prosecuting attorney's office, and any other person deemed to be necessary due to his or her special training in child abuse investigation. Other persons may participate in investigation of particular cases at the invitation of the team and as determined necessary, such as medical personnel, school officials, mental health workers, personnel from domestic violence programs, persons knowledgeable about adaptive equipment and supportive services for parents or guardians with disabilities or the guardian ad litem program.

(2) The teams shall develop a written protocol for investigation of child abuse cases and for interviewing alleged victims of such abuse or neglect, including protocols for investigations involving a family member with a disability. Each team shall develop written agreements signed by member agencies, specifying the role of each agency, procedures to be followed to assess risks to the child and criteria and procedures to be followed to ensure the child victim's safety including removal of the alleged offender.

(3) Each team member shall be trained in his or her respective role, including risk assessment, dynamics of child abuse and interviewing and investigatory techniques. Such training may be provided by the Idaho network of children's advocacy centers or by the member's respective agency.

(4) Each team shall classify, assess and review a representative selection of cases referred to either the department or to law enforcement entities for investigation of child abuse or neglect.

(5) Each multidisciplinary team shall develop policies that provide for an independent review of investigation procedures utilized in cases upon completion of any court actions on those cases. The procedures shall include independent citizen input. Nonoffending parents of child abuse victims shall be notified of the review procedure.

(6) Prosecuting attorneys of the various counties may determine that multidisciplinary teams may be most effectively established through the use of joint exercise of powers agreements among more than one (1) county and such agreements are hereby authorized.

(7) Lack of review by a multidisciplinary team of a particular case does not defeat the jurisdiction of the court.

SECTION 3. That Section 16-1618, Idaho Code, be, and the same is hereby amended to read as follows:

16-1618. INVESTIGATIVE INTERVIEWS OF ALLEGED CHILD ABUSE VICTIMS. Unless otherwise demonstrated by good cause, all investigative or risk assessment interviews of alleged victims of child abuse will be documented by audio or video taping whether conducted by personnel of law enforcement entities, ~~or~~ the department of health and welfare or child advocacy centers. The absence of such audio or video taping shall not limit the admissibility of such evidence in any related court proceeding.

SECTION 4. That Section 16-2002, Idaho Code, be, and the same is hereby amended to read as follows:

16-2002. DEFINITIONS. When used in this chapter, unless the text otherwise requires:

(1) "Court" means the district court or magistrate's division thereof or, if the context requires, a judge or magistrate thereof.

(2) "Child" or "minor" means any individual who is under the age of eighteen (18) years.

(3) "Neglected" means:

(a) Conduct as defined in section 16-1602 (2~~6~~8), Idaho Code; or

(b) The parent(s) has failed to comply with the court's orders or the case plan in a child protective act case and:

- (i) The department has had temporary or legal custody of the child for fifteen (15) of the most recent twenty-two (22) months; and
- (ii) Reunification has not been accomplished by the last day of the fifteenth month in which the child has been in the temporary or legal custody of the department.

(4) "Abused" means conduct as defined in section 16-1602(1), Idaho Code.

(5) "Abandoned" means the parent has willfully failed to maintain a normal parental relationship including, but not limited to, reasonable support or regular personal contact. Failure of the parent to maintain this relationship without just cause for a period of one (1) year shall constitute prima facie evidence of abandonment under this section; provided however, where termination is sought by a grandparent seeking to adopt the child, the willful failure of the parent to maintain a normal parental relationship as provided herein without just cause for six (6) months shall constitute prima facie evidence of abandonment.

(6) "Legal custody" means status created by court order which vests in a custodian the following rights and responsibilities:

- (a) To have physical custody and control of the child and to determine where and with whom the child shall live;
- (b) To supply the child with food, clothing, shelter and incidental necessities;
- (c) To provide the child with care, education and discipline; and
- (d) To authorize medical, dental, psychiatric, psychological and other remedial care and treatment for the child, including care and treatment in a facility with a program of services for children;

provided that such rights and responsibilities shall be exercised subject to the powers, rights, duties and responsibilities of the guardian of the person.

(7) "Guardianship of the person" means those rights and duties imposed upon a person appointed as guardian of a minor under the laws of Idaho. It includes but is not necessarily limited either in number or kind to:

- (a) The authority to consent to marriage, to enlistment in the armed forces of the United States, and to major medical, psychiatric and surgical treatment; to represent the minor in legal actions; and to make other decisions concerning the child of substantial legal significance;
- (b) The authority and duty of reasonable visitation, except to the extent that such right of visitation has been limited by court order;
- (c) The rights and responsibilities of legal custody except where legal custody has been vested in another individual or in an authorized child placement agency;
- (d) When the parent and child relationship has been terminated by judicial decree with respect to the parents, or only living parent, or when there is no living parent, the authority to consent to the adoption of the child and to make any other decision concerning the child which the child's parents could make.

(8) "Guardian ad litem" means a person appointed by the court pursuant to section 16-1614 or 5-306, Idaho Code.

(9) "Authorized agency" means the department, a local agency, a person, an organization, corporation, benevolent society or association licensed or approved by the department or the court to receive children for control, care, maintenance or placement.

(10) "Department" means the department of health and welfare and its authorized representatives.

(11) "Parent" means:

- (a) The birth mother or the adoptive mother;
- (b) The adoptive father;

(c) The biological father of a child conceived or born during the father's marriage to the birth mother; and

(d) The unmarried biological father whose consent to an adoption of the child is required pursuant to section 16-1504, Idaho Code.

(12) "Presumptive father" means a man who is or was married to the birth mother and the child is born during the marriage or within three hundred (300) days after the marriage is terminated.

(13) "Parent and child relationship" includes all rights, privileges, duties and obligations existing between parent and child, including inheritance rights, and shall be construed to include adoptive parents.

(14) "Parties" includes the child and the petitioners.

(15) "Unmarried biological father," as used in this chapter and chapter 15, title 16, Idaho Code, means the biological father of a child who was not married to the child's mother at the time the child was conceived or born.

(16) "Unmarried biological mother," as used in this chapter, means the biological mother of a child who was not married to the child's biological father at the time the child was conceived or born.

(17) "Disability" means, with respect to an individual, any mental or physical impairment which substantially limits one (1) or more major life activities of the individual including, but not limited to, self-care, manual tasks, walking, seeing, hearing, speaking, learning, or working, or a record of such an impairment, or being regarded as having such an impairment. Disability shall not include transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, other sexual behavior disorders, or substance use disorders, compulsive gambling, kleptomania, or pyromania. Sexual preference or orientation is not considered an impairment or disability. Whether an impairment substantially limits a major life activity shall be determined without consideration of the effect of corrective or mitigating measures used to reduce the effects of the impairment.

(18) "Adaptive equipment" means any piece of equipment or any item that is used to increase, maintain, or improve the parenting abilities of a parent with a disability.

(19) "Supportive services" means services which assist a parent with a disability to compensate for those aspects of their disability which affect their ability to care for their child and which will enable them to discharge their parental responsibilities. The term includes specialized or adapted training, evaluations, or assistance with effective use of adaptive equipment, and accommodations which allow a parent with a disability to benefit from other services, such as Braille texts or sign language interpreters.

Approved March 18, 2014

CHAPTER 121

(S.B. No. 1226, As Amended, As Amended)

AN ACT

RELATING TO DENTISTS; AMENDING SECTION 54-911, IDAHO CODE, TO REVISE THE NUMBER OF BOARD MEMBERS NECESSARY FOR A QUORUM AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-912, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE APPOINTMENT OF AN EXECUTIVE DIRECTOR AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-915, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE DEGREE REQUIRED FOR LICENSURE AS A DENTIST; AMENDING SECTION 54-916A, IDAHO CODE, TO PROVIDE FOR LICENSURE TO PRACTICE DENTAL HYGIENE BY CREDENTIALS; AMENDING SECTION 54-916B, IDAHO CODE, TO PROVIDE FOR LICENSURE TO PRACTICE DENTISTRY BY CREDENTIALS; AMENDING SECTION 54-918, IDAHO CODE, TO PROVIDE THAT AN EXAMINATION MAY BE CONDUCTED BY AN AGENT OF THE BOARD; AMENDING SECTION 54-920,

IDAHO CODE, TO REVISE A PROVISION RELATING TO RENEWAL OF A LICENSE AND TO REVISE A PROVISION RELATING TO THE REQUIREMENTS FOR CONVERTING A LICENSE FROM INACTIVE TO ACTIVE; AND AMENDING SECTION 54-924, IDAHO CODE, TO REMOVE A PROVISION RELATING TO GROUNDS FOR DISCIPLINARY ACTION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-911, Idaho Code, be, and the same is hereby amended to read as follows:

54-911. BOARD OF DENTISTRY -- ORGANIZATION -- MEETINGS -- EXPENSES -- PER DIEM. The board of dentistry shall select from its dentist members a chairman who shall serve at the pleasure of the board. The board may meet at stated times, and shall meet upon the call of its chairman or a majority of the members. It shall keep minutes of its meetings and actions thereat. Five (5) members, three (3) of whom must be dentists and ~~one~~ two (~~1~~2) of whom must be a nondentists, shall constitute a quorum, and the vote of the majority of the members present at a meeting at which a quorum is present shall determine the action of the board.

Out of any appropriation applicable to the administration of this act ~~chapter~~, each member of the board shall be compensated as provided by section 59-509(n), Idaho Code.

SECTION 2. That Section 54-912, Idaho Code, be, and the same is hereby amended to read as follows:

54-912. BOARD OF DENTISTRY -- POWERS AND DUTIES. The board shall have the following powers and duties:

(1) To ascertain the qualifications and fitness of applicants to practice dentistry, a dental specialty or dental hygiene; to prepare, conduct and grade qualifying examinations; to require and accept passing results of written and clinical examinations from approved dental and dental hygiene testing organizations; to issue in the name of the board a certificate of qualification to applicants found to be fit and qualified to practice dentistry or dental hygiene.

(2) To prescribe rules for a fair and wholly impartial method of licensure and examination of applicants to practice dentistry, a dental specialty or dental hygiene.

(3) To define by rule what shall constitute accepted and approved schools, colleges, institutions, universities or departments thereof for the teaching of dentistry or dental hygiene and to determine, accept and approve those that comply therewith.

(4) To promulgate other rules required by law or necessary or desirable for its enforcement and administration; to define by rule the terms unprofessional conduct or practices injurious to the public as the terms are used in section 54-924, Idaho Code, to furnish applications, certificates, licenses and other necessary forms.

(5) To inspect or cause to be inspected the offices or operating rooms of all persons licensed under this chapter.

(6) Upon its own motion or upon any complaint, to initiate and conduct investigations on all matters relating to the practice of dentistry or dental hygiene and to conduct hearings or proceedings on its own or through its designated hearing officer, to revoke, suspend or otherwise condition certificates of qualification or licenses of persons practicing dentistry or dental hygiene and, on such terms as the board shall deem appropriate, to revoke, suspend, or otherwise condition such licenses, provided such hearings and proceedings shall be had in conformance with the provisions of chapter 52, title 67, Idaho Code. Final decisions of the board shall be subject to judicial review as provided in chapter 52, title 67, Idaho Code.

(7) The board, its designated hearing officer, or representative shall have power to administer oaths, the power to engage in discovery as provided in the Idaho rules of civil procedure and chapter 52, title 67, Idaho Code, including, but not limited to, the power to take depositions of witnesses within or without the state in the manner provided by law in civil cases, and shall have power throughout the state of Idaho to require the attendance of witnesses and the production of books, records and papers as it may desire at any hearing before it of any matter which it has authority to investigate, and for that purpose the board or its designated hearing officer may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers, directed to the sheriff of any county of the state of Idaho, where the witness resides, or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in criminal cases and shall be paid from the state board of dentistry fund in the same manner as other expenses of the board are paid. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum served upon any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, it shall be the duty of the district court, or any judge thereof, of any county in this state in which the disobedience, neglect or refusal occurs, upon application by the board to compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or for refusal to testify. The licensed person accused in the proceedings shall have the same right of subpoena upon making application to the board.

(8) The board shall establish an office and may appoint an executive director ~~who need not be a member of the board or a person licensed to practice dentistry or dental hygiene,~~ and may employ other personnel, including attorneys and hearing officers, as may be necessary to assist the board. The board shall prescribe the duties of the executive director and these duties shall include the preparation of all papers and records under law for the board, and shall include enforcement activities as to the board may from time to time appear advisable, and the executive director shall act for and on behalf of the board in such manner as the board may authorize, keep records, property and equipment of the board and discharge other duties as the board may from time to time prescribe. The compensation of the executive director or other personnel shall be determined by the board and the executive director shall be bonded to the state in the time, form and manner prescribed in chapter 8, title 59, Idaho Code.

(9) To report annually to the associations on the status of the state board of dentistry ~~account~~ fund and furnish the associations a written report on all receipts and expenditures during the preceding year.

(10) Provide, by rule, for reasonable fees for administrative costs and assess costs reasonably and necessarily incurred in the enforcement of this chapter when a licensee has been found to be in violation of this chapter.

SECTION 3. That Section 54-915, Idaho Code, be, and the same is hereby amended to read as follows:

54-915. QUALIFICATIONS REQUIRED FOR DENTIST OR DENTAL HYGIENIST LICENSURE. No person hereafter shall be eligible for licensure to practice dentistry or dental hygiene in this state unless the applicant:

(1) Is of good moral character and has not pled guilty to or been convicted of any felony, or of any misdemeanor involving moral turpitude, unless the person demonstrates that he has been sufficiently rehabilitated to warrant the public trust;

(2) Shall, for dentistry, have successfully completed the course of study in dentistry, and graduated and received a degree of doctor of dental

surgery, or doctor of dental medicine, ~~or equivalent degree~~ from a dental school accepted and approved by the board;

(3) Shall, for dental hygiene, have successfully completed the course of study in dental hygiene, and received a degree from a dental hygiene school accepted and approved by the board;

(4) Shall, for dentistry and dental hygiene, pass the examinations provided for in section 54-918, Idaho Code.

SECTION 4. That Section 54-916A, Idaho Code, be, and the same is hereby amended to read as follows:

54-916A. DENTAL HYGIENE APPLICANTS LICENSED IN OTHER STATES LICENSURE BY CREDENTIALS. The board may issue a license to practice dental hygiene without further examination to an applicants licensed to practice dental hygiene in another state upon evidence that:

(1) The applicant is currently holds an active dental hygienist who holds a valid license in good standing to practice dental hygiene in another state with no disciplinary proceedings or unresolved complaints pending before the state's licensing board;

(2) The applicant has been licensed for at least one (1) year and the hygienist applicant has practiced a minimum of one thousand (1,000) hours in the two (2) years immediately preceding the date of application;

(3) No disciplinary proceeding or unresolved complaint is pending at the time a license is to be issued by this state. The applicant has graduated from a dental hygiene school accredited by the commission on dental accreditation of the American dental association as of the date of the applicant's graduation;

(4) The applicant has successfully completed a board approved clinical examination; which is at least equivalent to that required by this state, as determined by the board.

(5) The applicant has successfully completed the national board dental hygiene examination; and

(6) The applicant has paid the application fee as set by board rule.

SECTION 5. That Section 54-916B, Idaho Code, be, and the same is hereby amended to read as follows:

54-916B. DENTAL APPLICANTS LICENSED IN OTHER STATES LICENSURE BY CREDENTIALS. The board may issue a license to applicants licensed to practice dentistry in another state without the further examination required by section 54-915(4), Idaho Code, upon evidence that:

(1) The applicant is currently holds an active dentist who holds a valid unrestricted license in good standing to practice dentistry in another state with no disciplinary proceedings or unresolved complaints pending before the state's licensing board;

(2) The applicant has been in clinical practice at least five (5) years immediately preceding the date of application for a minimum of one thousand (1,000) hours in each year;

(3) The applicant has graduated from a dental school accredited by the commission on dental accreditation of the American dental association as of the date of the applicant's graduation;

(4) The applicant has successfully completed the national board dental examinations parts one (1) and two (2);

(45) The applicant has successfully completed a board approved clinical examination which is at least equivalent to that required by this state, as determined by the board; and

(5) At the discretion of the board, the applicant may be required to present case histories of patients treated by the applicant in the last five

~~(5) years including appropriate x-rays, study models, treatment plans and treatment records;~~

~~(6) At the discretion of the board, the applicant may be required to appear for a personal interview conducted by the board;~~

~~(7) The applicant meets all other qualifications for a license in this state; and~~

~~(86) The applicant has paid the application fee as set by the board of not more than one thousand dollars (\$1,000) rule.~~

SECTION 6. That Section 54-918, Idaho Code, be, and the same is hereby amended to read as follows:

54-918. EXAMINATIONS -- CERTIFICATE OF QUALIFICATION. (1) An applicant for licensure shall pass such examinations in dentistry and in dental hygiene as are conducted by the board or its agent. Examinations shall be written or clinical, or both, and upon such subjects in dentistry and dental hygiene as the board shall determine will thoroughly test the fitness and ability of the applicant to practice dentistry or dental hygiene. An applicant for licensure shall pass the written jurisprudence examination conducted by the board. A passing score of seventy-five percent (75%) correct shall be required on the written jurisprudence examination. A passing score of at least seventy-five percent (75%) correct shall be required on any additional written or clinical examinations conducted by the board. It shall report and record the names of applicants who pass and of those who fail the examinations. Upon the candidate's request, the board will issue to each passing applicant in dentistry, who is qualified for Idaho licensure, a certificate of qualification to practice dentistry, and to each passing applicant in dental hygiene, who is qualified for Idaho licensure, a certificate of qualification to practice dental hygiene within the state of Idaho.

(2) In lieu of conducting written examinations other than the jurisprudence examination, the board may require and accept the results of the national board dental and dental hygiene examinations administered by the American dental association. The American dental association shall set the standards for passing the national board dental and dental hygiene examinations. In lieu of conducting clinical examinations, the board may require and accept the results of clinical examinations administered by national or regional testing organizations approved by the board. The national or regional testing organizations shall set the standards for passing or acceptable level of competency on the clinical examinations administered.

(3) Applicants who fail any examination conducted by the board or its agent shall be notified thereof in writing by the board, which shall also record the fact of failure and the date and means of notification.

(4) Written questions and answers of applicants shall be subject to disclosure according to chapter 3, title 9, Idaho Code, unless exempt from disclosure in that chapter and title, and shall be destroyed by the board after the period of one (1) year following the examination.

SECTION 7. That Section 54-920, Idaho Code, be, and the same is hereby amended to read as follows:

54-920. LICENSING -- LICENSE FEES -- BIENNIAL RENEWAL OF LICENSES -- LATE FEES AND RETURNED CHECKS -- CLASSIFICATIONS OF LICENSES -- RIGHTS OF LICENSEES -- NOTIFICATION OF CHANGE OF ADDRESS. (1) Each person determined by the board as qualified for licensure under this chapter shall pay the prescribed biennial license fee to the board prior to issuance of a license. Unless otherwise specified on a license, licenses issued by the board shall be effective for the biennial licensing period specified in this section. The biennial licensing period for dental licenses shall be a two (2) year period from October 1 of each even-numbered calendar year to September 30 of the

next successive even-numbered calendar year. The biennial licensing period for dental hygiene licenses shall be a two (2) year period from April 1 of each odd-numbered calendar year to March 31 of the next successive odd-numbered calendar year. Unless otherwise specified on a license, any license issued during a biennial licensing period shall be effective until the beginning date of the next successive biennial licensing period and the board may prorate the amount of the license fee from the date of issuance of the license until the beginning date of the next applicable biennial licensing period at the discretion of the board. A license issued by the board shall expire unless renewed in the manner specified in this section.

(2) The nonrefundable biennial license fees shall be fixed by the board, but shall not exceed the following amounts:

- (a) Four hundred dollars (\$400) for a dentist with an active status;
 - (b) Two hundred dollars (\$200) for a dentist with an inactive status;
 - (c) Two hundred twenty dollars (\$220) for a dental hygienist with an active status;
 - (d) One hundred twelve dollars (\$112) for a dental hygienist with an inactive status;
 - (e) Four hundred dollars (\$400) for a dentist with a specialist status;
- or
- (f) Twenty dollars (\$20.00) for a dentist or dental hygienist with a retirement status.

(3) A license issued by the board shall be renewed as prescribed in this section. Prior to the expiration of the effective period of a license, the board shall ~~mail a~~ provide notice of renewal application to the licensee's address of record on file with the board. To renew a dental license, each licensee shall submit a properly completed renewal application and the appropriate biennial license fee to the board prior to September 30 of every even-numbered calendar year. To renew a dental hygiene license, each licensee shall submit a properly completed renewal application and the appropriate biennial license fee to the board prior to March 31 of each odd-numbered calendar year. Each licensee determined by the board as qualified for renewal of a license shall be issued a license for the applicable biennial licensing period.

(4) The following procedure shall be followed by the board for all licensees who fail to submit a properly completed renewal application and appropriate biennial license fee on or before the expiration of the effective period of a license. A license that expires by reason of a licensee's failure to satisfy the renewal requirements shall not be considered to be a disciplinary action by the board and shall result in the termination of the licensee's right to practice dentistry or dental hygiene in the state.

- (a) The board shall mail a notice of failure to renew a license to the licensee's address; and
- (b) The notice of failure to renew a license shall advise the licensee that he has failed to comply with the board's license renewal requirements and that a failure to submit a properly completed renewal application, the appropriate biennial license fee and a fifty dollar (\$50.00) late fee within thirty (30) days of the date upon which the board's notice was mailed shall result in the expiration of his license.

(5) Any person who delivers a check or other payment to the board that is returned to the board unpaid by the financial institution upon which it was drawn shall pay to the board as an administrative cost, in addition to any other amount owing, the amount of fifty dollars (\$50.00). Following notification by the board of the returned check or other payment, the person shall make payment of all moneys owing to the board by certified check or money order within thirty (30) days of the date of notification. A failure to submit the necessary remittance within the thirty (30) day period may result in the expiration of a license or constitute grounds for the board to deny, cancel, suspend or revoke a license.

(6) The board of dentistry may issue different classes of licenses as defined in this subsection.

(a) The term "license with active status" means a license issued by the board to a qualified person who is authorized to be an active practitioner of dentistry or dental hygiene in the state of Idaho. A person's right to be issued and maintain a license with active status shall not be affected by any absence, not exceeding two (2) years, from active practice in Idaho by reason of illness or vacation. A person's right to be issued and maintain a license with active status shall not be affected by any absence from active practice in Idaho for any period while serving on active duty in the armed forces of the United States, while employed in the United States public health service or United States veterans administration, or while enrolled in board-approved postgraduate educational courses, either within or without the state of Idaho. Each applicant or licensee requesting an active status license must state that he intends to fulfill the requirements for that status.

(b) The term "license with an inactive status" means a license issued by the board to a qualified person who is not authorized to be an active practitioner of dentistry or dental hygiene in the state of Idaho. A person issued a license with an inactive status is not entitled to practice dentistry or dental hygiene in the state of Idaho.

(c) The terms "license with special status" and "license with provisional status" mean licenses issued by the board to a qualified person on a provisional, conditional, restricted or limited basis under the terms of which the licensee is authorized to practice dentistry or dental hygiene in the state of Idaho subject to conditions, limitations and requirements imposed by the board. The conditions, limitations and requirements imposed by the board may include, but are not limited to, a limitation on the effective period of the license, a requirement that specific conditions must be fulfilled in order for the license to remain effective, a requirement that specified education, examinations and skills testing be successfully completed during the effective period of the license, a restriction on the scope of permissible services that the licensee is authorized to perform, a restriction on the type of patients for whom treatment may be rendered and a restriction on the locations at which the licensee can perform authorized services.

(d) The term "license with retirement status" means a license issued to a person who was previously licensed as a dentist or dental hygienist in Idaho who no longer intends to practice dentistry or dental hygiene. A license with retirement status does not permit the holder to practice dentistry or dental hygiene in the state of Idaho. A license with retirement status cannot be converted to a license with active or inactive status other than by filing an application for licensure and qualifying as required of a first time applicant.

(7) (a) The board may issue a license with active status to any qualified applicant or qualified licensee who is an active practitioner of dentistry or dental hygiene in the state of Idaho or who signifies to the board in writing that, upon issuance of an initial license or renewal of a biennial license, he intends to be an active practitioner in this state within two (2) years. Renewal of a license with active status requires compliance with requirements as determined by the board.

(b) The board may issue a license with inactive status to any qualified person who fulfilled the licensure requirements but, for any reason, is not eligible for a license with active status. Renewal of a license with inactive status requires compliance with requirements as determined by the board.

(c) The board may issue a license with provisional status or special status to any person who fulfills, or substantially fulfills, the applicable licensure requirements when the board, acting in its dis-

cretion, determined that special circumstances existed which, for the protection of the public health, safety and welfare, required that specific conditions, restrictions or limitations be imposed on the license. A license with special status or provisional status entitles the holder thereof to practice dentistry or dental hygiene in the state of Idaho subject to the conditions, restrictions and limitations specifically determined by the board and for the period of time prescribed. A provisional license is effective for the period specified by the board and may not be renewed. The board shall develop rules to include definitions, application and renewal requirements, limitations of practice and other conditions regarding provisional and special status licenses.

(d) The board may convert a license with inactive status to a license with active status in the event the holder pays the license fee prescribed for licenses with active status and submits to the board satisfactory evidence of:

(i) Compliance with the requirements of this chapter and all rules promulgated under the provisions of this chapter;

(ii) ~~Evidence of g~~Good moral character and good professional conduct; and

(iii) ~~Evidence~~ A minimum of one thousand (1,000) hours of clinical practice of dentistry or dental hygiene during practiced within the previous two (2) years or ~~full-time employment~~ has been employed full time as a dental or dental hygiene instructor at an American dental association accredited dental or dental hygiene school or has been enrolled in a board approved postgraduate educational program.

(e) Persons unable to otherwise fully meet the requirements for conversion of an inactive status license to an active status license may convert their license upon board approval.

(8) Each person licensed under this chapter shall notify the board in writing of any change in the person's name or address of record within thirty (30) days after the change has taken place.

SECTION 8. That Section 54-924, Idaho Code, be, and the same is hereby amended to read as follows:

54-924. OTHER GROUNDS OF REFUSAL, REVOCATION OR SUSPENSION OF DENTISTS -- PROBATION AGREEMENTS. The board may refuse to issue or renew a dental license, or may revoke, suspend, place on probation, reprimand or take other disciplinary action with respect to a dental license as the board may deem proper, including administrative penalties not to exceed ten thousand dollars (\$10,000) per violation and assessment of the costs of disciplinary proceedings in the event a dentist shall:

(1) Intentionally misstate, or fail fully to disclose, a fact material to determination of fitness and qualification in an application for licensure to practice dentistry, or cheat in an examination to practice dentistry; or procure a certificate or finding of qualification to practice dentistry or subsequently a license by false, fraudulent or deceitful means or in any other name than his own true name; or

(2) Practice dentistry under any name other than his own true name except as a professional service corporation or professional limited liability company or as a limited managed care plan pursuant to chapter 39, title 41, Idaho Code; or

(3) Practice or in any manner or by any means or at any place hold out or represent himself as practicing dentistry in or under the name of, or as a member, representative, agent or employee of, or in connection with, any company, association, or corporation, or under any trade, fictitious or business name except as a professional service corporation or professional

limited liability company or as a limited managed care plan pursuant to chapter 39, title 41, Idaho Code, except for a dentist practicing dentistry as an employee or contracting dentist providing dentistry services to any health center as defined and authorized in section 330 of the public health service act, codified as amended ~~codified~~ at 42 U.S.C. 254b; or

(4) (a) Make, or cause to be made, or assist in making, any fraudulent, false, or misleading statement as to his own, or an employee's, associate's, or other dentist's or dental hygienist's skill or lack of skill, or method of practice; or

(b) Claim to practice dentistry without causing pain; or

(c) Claim superiority over other dentists; or

(d) Publish, advertise, or circulate reports, letters, certificates, endorsements, or evidence of cures or corrections of dental conditions by such dentist, his employee or associate by reason of his or their skill, experience, or ability or of his or their use of any system, method, technique, device, drug, medicine, material, manipulation or machine; or

(e) Advertise the use of, or use, any system, method, technique, device, drug, medicine, material or machine, which is either falsely advertised or misnamed; or

~~(5) Employ any person to obtain patronage, or call or seek to call, the attention of the public to him, his office, his skill, or his practice, by public exhibition, use, reproduction, or representation of specimens or samples, of dental work, or by demonstrations in public. This shall not apply to teaching in dental or dental hygiene schools, or demonstrations or exhibitions before meetings of other dentists or dental hygienists; or~~

~~(6) Use intoxicants or drugs to such a degree as to render him unfit to practice; or~~

(76) Commit malpractice, that is, to provide dental care which fails to meet the standard of dental care provided by other qualified dentists in the same community or similar communities, taking into account his training, experience and the degree of expertise to which he holds himself out to the public; or

~~(87) Engage in unprofessional, unethical or immoral conduct, as defined by board rules; or~~

(98) Advertise in such way as to deceive or defraud, or probably deceive or defraud, the public or patrons; or

~~(109) Employ or permit any person not a dentist to practice dentistry, or any person not a dentist or dental hygienist to practice dental hygiene, in his office or under his control or direction; or~~

(110) Fail, neglect or refuse to keep his office or equipment, or otherwise conduct his work in accordance with current state and federal laws, rules and regulations; or

~~(121) Violate any other provisions of law or rules adopted by the board; or~~

(132) Falsely identify himself to the public as a specialist in a specialty area of dentistry as defined by rule; or

(143) Engage in the practice of dentistry as a member, stockholder, employee, director, partner or proprietor in any business entity in which a person, not duly licensed to practice dentistry in this state, holds an ownership interest. The provisions of this subsection shall not apply to such engagement in a limited managed care plan pursuant to chapter 39, title 41, Idaho Code, or to a dentist practicing dentistry for any health care center as defined and authorized in section 330 of the public health service act, as codified as amended at 42 U.S.C. ~~section~~ 254b.

CHAPTER 122
(S.B. No. 1253)

AN ACT

RELATING TO WINE; AMENDING SECTION 23-1331, IDAHO CODE, TO PROVIDE THAT MANUFACTURING OR BOTTLING FUNCTIONS OF A WINERY SHALL NOT BE SUBJECT TO SUSPENSION, REVOCATION OR NONRENEWAL OF A LICENSE AND TO PROVIDE AN EXCEPTION.

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

SECTION 1. That Section 23-1331, Idaho Code, be, and the same is hereby amended to read as follows:

23-1331. SUSPENSION, REVOCATION, AND REFUSAL TO RENEW LICENSES AND PERMITS -- MONETARY PENALTY. (1) The director may suspend, revoke, or refuse to renew a retail wine license, wine by the drink license, wine distributor's license, wine importer's license, winery license or vintner's license issued pursuant to the terms of this chapter for any violation of or failure to comply with the provisions of this chapter or rules and regulations promulgated by the director or the state tax commission pursuant to the terms and conditions of this chapter. Manufacturing or bottling functions of a winery shall not be subject to suspension, revocation or nonrenewal of a license, except for violations of law directly related to the manufacturing or bottling activities of the winery. Procedures for the suspension, revocation or refusal to grant or renew licenses issued under this chapter shall be in accordance with the provisions of chapter 52, title 67, Idaho Code.

(2) When the director determines to suspend such license, the affected licensee may petition the director prior to the effective date of the suspension requesting that a monetary payment be allowed in lieu of the license suspension. If the director determines such payment to be consistent with the purpose of the laws of the state of Idaho and is in the public interest, he shall establish a monetary payment in an amount not to exceed five thousand dollars (\$5,000). The licensee may reject the payment amount determined by the director, and instead be subject to the suspension provisions of subsection (1) of this section. Upon payment of the amount established, the director shall cancel the suspension period. The director shall cause any payment to be paid to the treasurer of the state of Idaho for credit to the state's general account in the state operating fund.

(3) The suspension of a license for the sale of liquor or beer shall automatically result in the suspension of any license for the sale of wine held by the same licensee and issued for the same premises or location. Such additional suspension shall be equal in length to and run concurrently with the period of the original suspension.

(4) When a proceeding to revoke or suspend a license has been or is about to be instituted, during the time a renewal application of such license is pending before the director, the director shall renew the license notwithstanding the pending proceedings, but such renewed license may be revoked or suspended without hearing if and when the previous license is, for any reason, revoked or suspended.

Approved March 18, 2014

CHAPTER 123
(S.B. No. 1272, As Amended)

AN ACT

RELATING TO LEGISLATIVE COUNCIL; AMENDING SECTION 67-427, IDAHO CODE, TO PROVIDE THAT LEGISLATIVE COUNCIL SHALL MEET AT LEAST TWO TIMES A YEAR OR AS MAY BE NECESSARY, TO PROVIDE THAT MEMBERS OF THE COUNCIL SHALL HOLD OFFICE FOR TWO YEARS AND TO ESTABLISH PROVISIONS RELATING TO FILLING VACANCIES; AND AMENDING SECTION 67-428, IDAHO CODE, TO REVISE PROVISIONS RELATING TO OFFICERS OF THE COUNCIL AND TO PROVIDE THAT THE COUNCIL MAY ADOPT ITS OWN RULES AND APPOINT CERTAIN COMMITTEES.

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

SECTION 1. That Section 67-427, Idaho Code, be, and the same is hereby amended to read as follows:

67-427. LEGISLATIVE COUNCIL CREATED -- MEMBERS -- TERMS -- VACANCY. There is hereby created a legislative council which shall consist of the president pro tempore of the senate, the speaker of the house of representatives, the majority and minority floor leaders of each house, two (2) senators to be selected by the members of the majority party in the senate, two (2) senators to be selected by the members of the minority party in the senate, two (2) representatives to be selected by the members of the majority party in the house of representatives and two (2) representatives to be selected by the members of the minority party in the house of representatives. The council shall meet as soon as practicable during each regular biennial session following the selection of all members of the council at least two (2) times each year or as may be necessary as provided for in section 67-430, Idaho Code. Members of the council shall hold office for two (2) years concurrent with the first and second regular sessions of the legislature until the organization of the council during the following first regular biennial session. Any vacancy on the council shall be filled by the remaining members thereof: provided that any member thus elected shall be from the same house and the same party as his predecessor and shall hold office for the unexpired term of his predecessor. The legislative council shall appoint members to fill any vacancies that occur during the interim. Provided however, that any member so appointed shall be from the same house and the same political party as the member whose seat was vacated. Such member shall serve until the next regular legislative session. During the next regular legislative session, the members of the same house and the same political party as the member whose seat was vacated shall elect a member to fill the vacancy for the unexpired term of his predecessor.

SECTION 2. That Section 67-428, Idaho Code, be, and the same is hereby amended to read as follows:

67-428. OFFICERS OF COUNCIL -- COMMITTEES -- DIRECTOR OF LEGISLATIVE SERVICES. The council shall select a chairman and a vice-chairman, one of whom shall be a senator and the other a representative and it shall The president pro tempore of the senate and the speaker of the house of representatives shall serve as cochairmen of the council. The council may adopt its own rules of procedure. The council shall and appoint such committees as may be necessary for the proper and efficient performance of its duties. Committees shall consist of members of the council and other members of the legislature. The council shall appoint a director of legislative services, who shall serve at the pleasure of the council, and the council may employ such

other employees and engage the services of such persons and agencies as may be necessary or desirable in the performance of its duties.

Approved March 18, 2014

CHAPTER 124
(S.B. No. 1275)

AN ACT

RELATING TO AGRICULTURAL AND NATURAL RESOURCE EDUCATION PROGRAMS; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1629, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO IDAHO QUALITY PROGRAM STANDARDS INCENTIVE GRANTS, TO ESTABLISH THE QUALITY PROGRAM STANDARDS INCENTIVE GRANT FUND, TO ESTABLISH PROVISIONS RELATING TO A REQUEST FOR FUNDING, TO PROVIDE FOR RULES, TO ESTABLISH PROVISIONS RELATING TO A START-UP GRANT PROGRAM, TO ESTABLISH THE AGRICULTURAL AND NATURAL RESOURCE EDUCATION PROGRAM START-UP GRANT FUND, TO ESTABLISH PROVISIONS RELATING TO A REQUEST FOR FUNDING, TO PROVIDE FOR RULES AND TO PROVIDE FOR THE APPLICATION OF LAW.

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

SECTION 1. That Chapter 16, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1629, Idaho Code, and to read as follows:

33-1629. AGRICULTURAL AND NATURAL RESOURCE EDUCATION PROGRAMS. (1) Idaho Quality Program Standards Incentive Grants.

(a) The board of professional-technical education shall adopt and implement Idaho quality program standards for agricultural and natural resource education programs offered in any grade 9 through 12. Such standards shall apply to the areas of instruction, curriculum development, advisory committees, student development and community development. Such standards shall be used to assess the quality of local programs and to set goals for continued program improvement.

(b) The board of professional-technical education shall establish and administer an incentive grant program for instructors of agricultural and natural resource education programs offered in any grade 9 through 12 where such programs meet or exceed the applicable Idaho quality program standards as determined by the board. A district may apply to the board, on behalf of an instructor, for a grant provided for in this subsection. The board shall develop an application form and criteria to judge each application for the grant program. Grant awards shall be made by the board to instructors of programs that meet or exceed the criteria established by the board. The maximum amount of an incentive grant as provided for in this section shall be ten thousand dollars (\$10,000).

(c) There is hereby created in the state treasury the quality program standards incentive grant fund, to which shall be credited all moneys both public and private that may be appropriated, allocated, donated, distributed to or otherwise provided for by law. Moneys in the fund shall be used exclusively for incentive grants as provided for in this subsection. Moneys in the fund shall be continuously appropriated for the purposes of this incentive grant program. All idle moneys in the fund shall be invested by the state treasurer in a like manner as provided for in section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the fund.

(d) The board of professional-technical education shall in its annual budget request to the legislature request funding for the grant program provided for in this section.

(e) The board of professional-technical education shall adopt rules to implement the grant program established by this subsection.

(2) Agricultural Education Program Start-Up Grants.

(a) The board of professional-technical education shall establish and administer a start-up grant program for school districts and public charter schools to begin or to re-establish an agricultural and natural resource education program in any grade 9 through 12.

(b) The board shall develop an application form and criteria to judge each application for a start-up grant. Any school district or public charter school may apply for a start-up grant.

(c) There shall be no more than four (4) start-up grants awarded per school year. The maximum award for any one (1) start-up grant shall be twenty-five thousand dollars (\$25,000).

(d) There is hereby created in the state treasury the agricultural and natural resource education program start-up grant fund, to which shall be credited all moneys both public and private that may be appropriated, allocated, donated, distributed to or otherwise provided for by law. Moneys in the fund shall be used exclusively for start-up grants as provided for in this subsection. Moneys in the fund shall be continuously appropriated for the purposes of this start-up grant program. All idle moneys in the fund shall be invested by the state treasurer in a like manner as provided for in section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the fund.

(e) The board of professional-technical education shall in its annual budget request to the legislature request funding for the grant program provided for in this subsection.

(f) The board of professional-technical education shall adopt rules to implement the grant program established by this subsection.

(3) The provisions of this section shall apply to agricultural and natural resource education programs provided for in grades 9 through 12.

Approved March 18, 2014

CHAPTER 125
(S.B. No. 1279)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-318, IDAHO CODE, TO REVISE PROCEDURAL PROVISIONS RELATING TO THE SALE OF PERSONAL OR REAL PROPERTY OF AN IRRIGATION DISTRICT.

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

SECTION 1. That Section 43-318, Idaho Code, be, and the same is hereby amended to read as follows:

43-318. SALE OF PERSONAL OR REAL PROPERTY -- PROCEDURE -- SALE OF FEDERAL OR STATE LICENSE OR PERMIT. (1) Personal or real property of an irrigation district including a federal or state license or permit may be sold or transferred by its board of directors whenever the board finds and by resolution declares that the district no longer has use therefor. This procedure shall not be applicable to sales of real property acquired in compliance with the provisions of chapter 7, title 43, Idaho Code, because of the failure to pay irrigation district assessments.

1. If, in the opinion of the board, such property does not exceed ~~two~~ fifty thousand dollars (\$250,000) in value, it may sell the same without independent appraisal, notice or competitive bids.
2. Personal or real property, but not including a federal or state license or permit, exceeding ~~two~~ fifty thousand dollars (\$250,000) in estimated value shall first be appraised by three (3) disinterested freeholders of the district, who shall be selected by the board. It may then be sold at public or private sale to the highest bidder for cash at not less than its appraised value, after due notice.
3. Notice of sale shall describe the property, the appraised value thereof (by separate items, if so appraised), and the time, place and condition of sale.
4. If the appraised value exceeds ~~two~~ fifty thousand dollars (\$250,000), notice of sale shall be posted in three (3) public places in each of the election precincts in the district (one of which shall be the office of the board) at least ten (10) days before the date of sale. The board, in its discretion, may order that, in addition to such posting of notice, the notice shall be published in a daily or weekly newspaper, published or having a general circulation in the district, for the number of times, not to exceed three (3), and on the dates that the board shall specify in its order.
5. If, at the time set for closing the bids, no bidder offers the appraised price, or more, the board may sell the property for such price, and upon such terms, as the board by resolution declares to be reasonable, without further appraisal, notice or competitive bids.

(2) Whenever the board, by resolution, shall determine that the interest of the district in any federal or state license or permit is no longer required, it may, without independent appraisal or competitive bid, sell or transfer such federal license or permit upon such terms as may be fixed by the board; provided, that such resolution sets forth the license or permit to be sold or transferred and terms and conditions for sale or transfer, and provided further, that said resolution shall be published in a newspaper having general circulation in the district at least once a week for four (4) consecutive weeks preceding the date of sale; provided, however, that if within fifteen (15) days after the first publication of the resolution a referendum petition signed by qualified electors of the district equal in number to not less than ten percent (10%) of the electors of the district, based upon the aggregate vote cast at the general election of the directors of the district next preceding the filing of such petition, and at which election votes were cast in the election of directors, shall be filed with the secretary of the district requesting that an election be held upon the sale or transfer of such license or permit. Any election required to be held pursuant to a referendum petition filed in accordance with the provisions of this section, may be held separately or may be held concurrently with any other election authorized by law, pursuant to notice as provided in section 43-206, Idaho Code.

Any such election required to be held hereunder shall be called by resolution, which resolution shall also fix the date upon which such election shall be held, which shall be not more than forty-five (45) days following the receipt of petition requesting the election, the manner of holding the same and the method of voting for or against the sale or transfer. Such resolution shall also fix the compensation to be paid the officers of the election and shall designate the precincts and polling places and shall appoint for each polling place, from each precinct from the electors thereof, the officers of such election who shall constitute a board of election for each polling place, which officers shall consist of three (3) judges, one (1) of whom shall act as clerk. The description of precincts may be made by reference to any order or orders of the board of county commissioners of the county or counties in which the district or any part thereof is situated, or by reference to any previous order or resolution of the board or by detailed

description of such precincts. Precincts established by the boards of the various counties may be consolidated for special elections held hereunder. In the event any such election shall be called to be held concurrently with any other election or shall be consolidated therewith, the resolution calling the election hereunder need not designate precincts or polling places or the names of officers of election, but shall contain reference to the act or order calling such other election and fixing the precincts and polling places and appointing election officers therefrom. The resolution calling the election shall prescribe an official notice of election, which notice shall be published once a week for two (2) consecutive weeks, the last publication of which shall be at least ten (10) days prior to the date set for said election, in a newspaper of general circulation printed and published within the district, and no other or further notice of such election or publication of the names of election officers or of the precincts or polling places need be given or made. At such election the ballots shall contain the words "Sale--Yes" or "Sale--No."

The respective election boards shall conduct the election in their respective precincts in the manner prescribed by law for the holding of district elections to the extent the same shall apply and shall make their returns to the secretary of the district.

In the event that no referendum petition is filed, or if so filed, and if it shall appear from the election returns that a majority of the qualified electors of the district who shall have voted on the proposition submitted hereunder at such election voted in favor of such proposition, the directors of the district shall, by resolution, authorize the sale or transfer under the terms prescribed and effective as of the end of the notice period hereinafter provided, and shall cause notice thereof to be published one (1) time in a newspaper of general circulation within the district. For a period of thirty (30) days from the date of such publication, any person in interest may file suit in any court of competent jurisdiction to test the regularity, formality or legality of the proceedings authorizing the sale or transfer and the provisions of the contract of sale or transfer. After the expiration of such thirty (30) day period, no one shall have any right of action to contest the validity of the sale or transfer, or of the contract, or of the proceedings, or of any resolution of the board of directors regarding such sale or transfer, and said sale or transfer shall be conclusively presumed to be legal and no court shall thereafter have authority to inquire into such matter.

Approved March 18, 2014

CHAPTER 126

(S.B. No. 1284, As Amended, As Amended)

AN ACT

RELATING TO SPEED LIMITS ON INTERSTATE AND OTHER HIGHWAYS; AMENDING SECTION 49-654, IDAHO CODE, TO ALLOW AN INCREASED SPEED LIMIT ON HIGHWAYS IF CERTAIN CIRCUMSTANCES OCCUR; AMENDING SECTION 49-201, IDAHO CODE, TO ALLOW AN INCREASED SPEED LIMIT ON HIGHWAYS IF CERTAIN CIRCUMSTANCES OCCUR; AND AMENDING SECTION 49-207, IDAHO CODE, TO PROVIDE AN INCREASED SPEED LIMIT ON HIGHWAYS.

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

SECTION 1. That Section 49-654, Idaho Code, be, and the same is hereby amended to read as follows:

49-654. BASIC RULE AND MAXIMUM SPEED LIMITS. (1) No person shall drive a vehicle at a speed greater than is reasonable and prudent under the condi-

tions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding highway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(2) Where no special hazard or condition exists that requires lower speed for compliance with subsection (1) of this section the limits as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of the maximum limits:

(a) Thirty-five (35) miles per hour in any residential, business or urban district, unless otherwise posted in accordance with section 49-207(2) or (3), Idaho Code;

(b) Seventy-five (75) miles per hour on interstate highways provided that this speed may be increased to eighty (80) miles per hour if the department completes an engineering and traffic study on the interstate highway and concludes that the increase is in the public interest and the transportation board concurs with such conclusion;

(c) Sixty-five (65) miles per hour on state highways provided that this speed may be increased to seventy (70) miles per hour if the department completes an engineering and traffic study on the state highway and concludes that the increase is in the public interest and the transportation board concurs with such conclusion;

(d) Fifty-five (55) miles per hour in other locations unless otherwise posted up to a maximum of ~~sixty-five~~ seventy (65) miles per hour.

(3) ~~The maximum lawful speed limit on interstate highways shall not exceed sixty five (65) miles per hour~~ For vehicles with five (5) or more axles operating at a gross weight of more than twenty-six thousand (26,000) pounds the maximum lawful speed limit on interstate highways in nonurban areas shall not exceed ten (10) miles per hour less for vehicles with less than five (5) axles and operating at a gross weight of twenty-six thousand (26,000) pounds or less, and in urban areas the maximum lawful speed limit on interstate highways for such vehicles shall not exceed sixty-five (65) miles per hour.

SECTION 2. That Section 49-201, Idaho Code, be, and the same is hereby amended to read as follows:

49-201. DUTIES OF BOARD. (1) With the exception of requirements for sections 49-217 and 49-218 and chapters 6 and 9, title 49, Idaho Code, which shall be the responsibility of the director of the Idaho state police, and section 49-447, Idaho Code, which shall be the responsibility of the director of the department of parks and recreation, the board shall adopt and enforce administrative rules and may designate agencies or enter into agreements with private companies or public entities as may be necessary to carry out the provisions of this title. It shall also provide suitable forms for applications, registration cards, vehicle licenses, and all other forms requisite for the purpose of the provisions of this title, and shall prepay all transportation charges.

(2) The board may enter into agreements, compacts or arrangements with other jurisdictions on behalf of Idaho for the purpose of conforming procedures for proportional registration of commercial vehicles and other types of reciprocal agreements. Copies of agreements, compacts or arrangements shall be placed on file in the department and the board shall, as to all filings and adoption, conform with the provisions of chapter 52, title 67, Idaho Code. The board may approve, on a case-by-case basis, exemption from operating fees for private nonprofit entities who are bringing public interest

programs into the state. These entities may not be in competition with companies who transport goods and services for hire.

(3) The board shall adopt a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of this title for use upon highways within the state. The uniform system shall correlate with and, so far as possible, conform to the system set forth in the most recent edition of the manual on uniform traffic-control devices for streets and highways and other standards issued or endorsed by the federal highway administrator.

(4) Whenever the board shall determine upon the basis of an engineering and traffic investigation that any maximum speed is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the state highway or interstate highway system, the board may determine and declare a reasonable and safe maximum limit, thereat, not exceeding a maximum limit of seventy-five (75) miles per hour on interstate highways provided that this speed may be increased to eighty (80) miles per hour if the department completes an engineering and traffic study on the interstate highway and concludes that the increase is in the public interest and the transportation board concurs with such conclusion and sixty-five (65) miles per hour on state highways provided that this speed may be increased to seventy (70) miles per hour if the department completes an engineering and traffic study on the state highway and concludes that the increase is in the public interest and the transportation board concurs with such conclusion, which shall be effective when appropriate signs giving notice are erected. The speed limit may be declared to be effective at all times or at the times as indicated upon the signs. Differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs.

(5) The board shall adopt and enforce rules as may be consistent with and necessary to determine the classification of and the basis on which fees shall be computed.

SECTION 3. That Section 49-207, Idaho Code, be, and the same is hereby amended to read as follows:

49-207. MUNICIPAL REGISTRATION PROHIBITED -- POWER TO ENACT REGULATORY ORDINANCES NOT ABOLISHED. (1) Authorities of counties and cities shall have no power to pass, enforce or maintain any ordinance requiring, from any owner of a vehicle or any dealer to which this title shall be applicable, any tax, license or permit for the free use of the public highways of a county or city, or prohibiting or excluding any owner or dealer from the free use of such highways or excluding or prohibiting any vehicle registered in compliance with the provisions of this title from the free use of the highways. Powers given by general statutes to local authorities in cities to enact general ordinances applicable equally and generally to all vehicles and the use of highways to bring about the orderly passage of vehicles upon certain highways in such cities where the traffic is heavy and continuous, and powers given to cities to regulate vehicles offered to the public for hire, or processions, assemblages or parades on the highways or in public places shall remain in full force and effect, and all ordinances which may have been or which may be enacted in pursuance of those powers shall remain in full force and effect. These provisions of law shall not be construed to prevent cities from enacting and enforcing general ordinances prescribing additional requirements as to speed, manner of driving or operating vehicles on any of the highways of such cities, and prescribing other requirements pertaining to signals to be given by drivers or operators of motor vehicles, the carrying of lights on motor vehicles, the turning of motor vehicles on highways, and requirements for motor vehicles in passing other vehicles and pedestrians.

(2) Whenever local authorities in their respective jurisdictions determine on the basis of an engineering or traffic investigation, and the residential, urban or business character of the neighborhood abutting the highway in a residential, business or urban district that the speed limit permitted under this title is greater than is reasonable and safe under the conditions found to exist upon a highway or part of a highway or because of the residential, urban or business character of the neighborhood abutting the highway in a residential, business or urban district, the local authority may determine and declare a reasonable and safe maximum limit which:

- (a) Decreases the limit within a residential, business or urban district;
- (b) Increases the limit within a nonresidential area of an urban district but not to more than ~~sixty-five~~ seventy (6570) miles per hour; or
- (c) Decreases the limit outside an urban district.

(3) Local authorities in their respective jurisdictions shall determine by an engineering or traffic investigation the proper maximum speed not exceeding a maximum limit of ~~sixty-five~~ seventy (6570) miles per hour for all arterial highways and shall declare a reasonable and safe maximum limit which may be greater or less than the limit permitted under this title for an urban district.

(4) Any altered speed limit established shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice are erected upon the highway. Any alteration of maximum limits on state highways or extensions in a municipality by local authorities shall not be effective until the alteration has been approved by the department. Provided however, that any alteration of speed limits must be based upon a traffic engineering study approved by the department and completed according to department standards. The alteration of speed limits by local authorities shall be done in consultation with the department. In the event of disagreement between the department and local authorities, the department traffic study shall be adopted, unless the local government traffic study is submitted to the Idaho transportation department board and the board adopts the local study in whole or in part.

Approved March 18, 2014

CHAPTER 127
(S.B. No. 1316)

AN ACT

RELATING TO VETERANS; AMENDING CHAPTER 5, TITLE 65, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 65-513, IDAHO CODE, TO AUTHORIZE PREFERENCE IN HIRING AND PROMOTIONS BY PRIVATE EMPLOYERS FOR VETERANS AND CERTAIN INDIVIDUALS.

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

SECTION 1. That Chapter 5, Title 65, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 65-513, Idaho Code, and to read as follows:

65-513. PREFERENCE BY PRIVATE EMPLOYERS. A private, nonpublic employer may give preference in the hiring and promotion of employees to those who are eligible for preference under the provisions of section 65-503, Idaho Code.

Approved March 18, 2014

CHAPTER 128
(S.B. No. 1340)

AN ACT

RELATING TO CIVIL ACTIONS; AMENDING SECTION 5-337, IDAHO CODE, TO REMOVE REFERENCE TO PRESCRIPTIONS FOR DEFIBRILLATORS, TO REMOVE A PROVISION RELATING TO THE INVOLVEMENT OF A PHYSICIAN IN THE OWNER'S PROGRAM FOR A DEFIBRILLATOR AND TO REMOVE REFERENCES TO OSTEOPATHS.

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

SECTION 1. That Section 5-337, Idaho Code, be, and the same is hereby amended to read as follows:

5-337. IMMUNITY FOR USE OF AUTOMATED EXTERNAL DEFIBRILLATOR (AED). (1) As used in this section, "defibrillator" means an "automated external defibrillator (AED)" ~~which has been prescribed by a physician or osteopath licensed pursuant to chapter 18, title 54, Idaho Code.~~

(2) In order to promote public health and safety:

(a) A person or entity who acquires a defibrillator ~~as a result of a prescription~~ shall ensure that:

(i) Expected defibrillator users receive training in its use and care equivalent to the CPR and AED training of the American heart association, the American red cross or similar entities;

(ii) The defibrillator is maintained and tested by the owner according to the manufacturer's operational guidelines;

~~(iii) There is involvement of a licensed physician in the owner's program to ensure compliance with requirements for training, notification, maintenance and guidelines for use;~~

~~(iv)~~ Any person who renders emergency care or treatment to a person in cardiac arrest by using a defibrillator must activate the emergency medical services system as soon as possible, and must report any clinical use of the defibrillator to the prescribing physician.

(b) Any person or entity who acquires a defibrillator ~~as a result of a prescription~~ shall notify an agent of the emergency communications system or emergency vehicle dispatch center of the existence, location and type of defibrillator.

(3) (a) Any person who reasonably renders emergency care using a defibrillator, without remuneration or expectation of remuneration, at the scene of an accident or emergency to a victim of the accident or emergency shall not be liable for any civil damages resulting from the person's acts or omissions.

(b) No cause of action shall be maintained against a licensed physician, ~~osteopath~~, physician assistant, nurse practitioner, or nurse, or against an emergency medical technician, fireman, peace officer, ambulance attendant or other person trained to use a defibrillator, or against a person or entity who acquires or maintains a defibrillator which arises from the reasonable use of a defibrillator in an emergency setting and no cause of action shall be maintained against the ~~the~~ physician or osteopath who wrote the ~~the~~ a prescription for the defibrillator ~~if the prescription was written in good faith.~~

(c) This immunity from civil liability does not apply if the acts or omissions amount to gross negligence or willful or wanton or reckless misconduct.

(4) A defibrillator acquired pursuant to a prescription and possessed in compliance with subsection (2) of this section is exempt from the provisions of chapter 10, title 56, Idaho Code.

Approved March 18, 2014

CHAPTER 129
(S.B. No. 1346, As Amended)

AN ACT

RELATING TO STATE LANDS AND THE PARK AND RECREATION BOARD; AMENDING SECTION 67-4201, IDAHO CODE, TO PROVIDE AN EXCEPTION RELATING TO LENGTHS OF LEASES OF CERTAIN LANDS FOR LEASES OF FLOAT HOME MOORAGE SITES, TO PROVIDE A CORRECT BOARD REFERENCE AND TO REMOVE AND REVISE ARCHAIC VERBIAGE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-4201, Idaho Code, be, and the same is hereby amended to read as follows:

67-4201. WITHDRAWAL OF LANDS FOR PARK PURPOSES. Wherever any lands are owned by the state of Idaho, bordering on or in the vicinity of any lake, waterfall, spring or other natural curiosity, ~~the state board of land commissioners park and recreation board of the department of parks and recreation~~ may withdraw ~~said the premises~~ from sale. If in the opinion of the ~~said land park and recreation board~~ it is desirable, the ~~said lands~~ may be platted into lots and blocks, parks, streets and public places, and ~~said the lots and blocks~~ may be appraised and an annual rental fixed thereon. No lease of ~~such the premises~~ shall be made for a longer period than ten (10) years, and every lease shall specify that no disorderly house shall be kept on the premises; that the premises shall be kept in good condition, and that no waste shall be committed thereon. Notwithstanding the foregoing, the board may, in its discretion, extend or renew an existing lease of a float home moorage site for a period of up to thirty (30) years, on terms and conditions as the board deems appropriate. The ~~said land board~~ may require a bond against waste, and may prescribe additional rules and ~~regulations~~ for leasing of ~~said the premises~~ for the use thereof and for construction of buildings or other improvements thereon, and the removal thereof.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 18, 2014

CHAPTER 130
(S.B. No. 1350)

AN ACT

RELATING TO POWERS AND DUTIES OF THE STATE TREASURER; AMENDING CHAPTER 12, TITLE 67, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 67-1203, 67-1203A AND 67-1203B, IDAHO CODE, TO ESTABLISH A STATE TREASURER INVESTMENT ADVISORY BOARD, TO PROVIDE MEMBERS AND QUALIFICATIONS, TO PROVIDE FOR BOARD MEMBER APPOINTMENT, TERMS AND REMOVAL, BOARD VACANCIES, QUORUM AND MEETINGS, AND BOARD MEMBER COMPENSATION, TO PROVIDE FOR THE RECOM-

MENDATION OF TYPES OF INVESTMENTS AND TO PROVIDE FOR REPORTS; AMENDING SECTION 67-1210A, IDAHO CODE, TO REMOVE SECURITIES LENDING AGREEMENTS AS AN ALLOWABLE INVESTMENT OF THE STATE TREASURER; AMENDING CHAPTER 12, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1210B, IDAHO CODE, TO PROVIDE THE TREASURER'S ABILITY TO CONTINUE INVESTMENT OF STATE FUNDS OR ANY OTHER FUNDS IN HIS HANDS UNDER SECURITIES LENDING AGREEMENTS IN PLACE AND TO PROVIDE FOR REPORTS; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Chapter 12, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTIONS, to be known and designated as Sections 67-1203, 67-1203A and 67-1203B, Idaho Code, and to read as follows:

67-1203. ESTABLISHMENT OF A STATE TREASURER INVESTMENT ADVISORY BOARD -- MEMBERS -- QUALIFICATIONS. There is hereby established in the office of the state treasurer a state treasurer investment advisory board, hereinafter referred to as the "investment board." This investment advisory board shall consist of the state treasurer, who shall act as chairman of the investment board, and members hereinafter designated who shall be appointed by the governor subject to senate confirmation. The members of the investment advisory board subject to appointment shall be: five (5) public members from the citizenry at large who are knowledgeable and experienced in financial matters and in the placement or management of investment assets and have at least ten (10) years experience in such endeavors.

67-1203A. BOARD -- APPOINTMENT OF MEMBERS -- TERM -- REMOVAL -- VACANCIES -- ORGANIZATION -- QUORUM -- MEETINGS -- COMPENSATION. (1) The members of the board appointed by the governor shall serve for terms of four (4) years, provided that for the first term the governor shall appoint three (3) members who shall serve for a term of two (2) years, and two (2) members who shall serve for a term of four (4) years. Members of the board shall serve until their successors have been selected and qualified.

(2) A member of the board appointed by the governor shall not hold an office, position or employment in a political party. An appointed member may be removed from the board for cause by a two-thirds (2/3) vote of the full board. A vacancy in the appointive membership of the board during a term thereof shall be filled by appointment by the governor for the unexpired term. A majority of the members of the board shall constitute a quorum for the transaction of business. The meetings of the board shall be held at least quarterly and at other times upon the call of the chairman or a majority of the board. The board members appointed hereunder shall be compensated as provided by section 59-509(n), Idaho Code.

67-1203B. RECOMMENDATION OF THE TYPES AND KINDS OF INVESTMENTS. (1) The investment board shall recommend the types and kinds of investments that the state treasurer or an investment manager would utilize to manage the idle funds and such other funds as the treasurer is authorized to invest pursuant to sections 67-1210 and 67-1210A, Idaho Code.

(2) The investment board shall recommend investment policies governing the investment of idle funds and other funds accepted for investment by the state treasurer. The recommendations shall pertain to the types, kinds or nature of investment of any of the funds and any limitations, conditions or restrictions upon the methods, practices or procedures for investment, reinvestments, purchases, sales or exchange transactions, provided such recommendations shall not conflict with nor be in derogation of any Idaho constitutional provision or of the provisions of this chapter.

(3) The investment advisory board, in making recommendations, and the state treasurer and all investment managers shall be governed by the Idaho uniform prudent investor act, chapter 5, title 68, Idaho Code. The state treasurer and any investment manager shall invest and manage the assets of the respective funds in accordance with that act and the Idaho constitution.

SECTION 2. That Section 67-1210A, Idaho Code, be, and the same is hereby amended to read as follows:

67-1210A. ADDITIONAL ALLOWABLE INVESTMENTS BY THE STATE TREASURER. In addition to investments enumerated in section 67-1210, Idaho Code, the state treasurer is authorized and empowered to invest state funds or any other funds in his hands including, but not limited to, funds of any public agency invested pursuant to joint exercise of powers agreements, in prime banker's acceptances and prime commercial paper, sales and repurchase of call options, ~~securities lending agreements,~~ and bonds, debentures or notes of any corporation organized, controlled and operating within the United States which have, at the time of their purchase, an A rating or higher by a commonly known rating service. ~~Such securities lending agreements shall require the borrower to provide and maintain collateral (cash or securities which are authorized investments for the state treasurer) at least equal in value to the value of the securities loaned.~~ The sale (writing) and repurchase of call options is permitted only when the state treasurer or the joint powers local government pooled fund own the securities on which the option is written.

The provisions of this section shall not be construed to enlarge the powers of other public agencies to invest in prime banker's acceptances, prime commercial paper, sales and repurchase of call options, ~~securities lending agreements,~~ or bonds, debentures or notes of any corporation unless such investments are made by the state treasurer pursuant to a joint exercise of powers agreement.

SECTION 3. That Chapter 12, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-1210B, Idaho Code, and to read as follows:

67-1210B. ABILITY TO CONTINUE TO INVEST. In addition to investments enumerated in sections 67-1210 and 67-1210A, Idaho Code, the state treasurer is authorized and empowered to continue investment of state funds or any other funds in his hands under securities lending agreements in place upon the effective date of this section, subject to the provisions of this section. The treasurer shall conduct an orderly program to terminate securities lending. The investment board established by section 67-1203, Idaho Code, may make recommendations for such termination program as set forth in section 67-1203B, Idaho Code. The treasurer shall provide a report to the president pro tempore of the senate and the speaker of the house of representatives by January 1 of each year summarizing the termination program, recommending whether the program continue for the following fiscal year or conclude, and the legislative action recommended to conclude such program.

SECTION 4. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

CHAPTER 131
(S.B. No. 1352)

AN ACT

RELATING TO BEHAVIORAL HEALTH; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 91, TITLE 39, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DECLARE POLICY AND INTENT, TO DEFINE TERMS, TO PROVIDE FOR GOVERNANCE FOR CRISIS CENTERS, TO PROVIDE FOR EVALUATION, TO AUTHORIZE FUNDING, TO AUTHORIZE CONTRIBUTIONS FROM COMMUNITIES, TO PROVIDE THAT SERVICES SHALL BE NONDISCRIMINATORY, TO AUTHORIZE FEES AND TO PROVIDE RULEMAKING AUTHORITY.

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

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 91, Title 39, Idaho Code, and to read as follows:

CHAPTER 91
BEHAVIORAL HEALTH COMMUNITY CRISIS CENTERS

39-9101. SHORT TITLE. This chapter shall be known and may be cited as the "Behavioral Health Community Crisis Centers Act."

39-9102. DECLARATION OF POLICY AND INTENT. (1) Citizens of Idaho experiencing a behavioral health crisis are often incarcerated, hospitalized or treated in hospital emergency departments because an appropriate level of care to meet their needs is not available.

(2) Hospital emergency departments, jails and law enforcement agencies in Idaho have become the default providers of crisis intervention to Idaho citizens with behavioral health disorders. Extensive resources are being unnecessarily expended by law enforcement and hospitals on behavioral health crisis services.

(3) It is the policy of this state that citizens with behavioral health disorders should not be needlessly incarcerated when no crime has been perpetrated or the crime is of a minor nature arising from a behavioral health disorder, crisis or incident.

(4) Therefore, it is the intent of the legislature that behavioral health community crisis centers, hereinafter referred to as crisis centers, be developed and operated, as funding is appropriated, to provide the appropriate level of care to meet the needs of Idahoans experiencing behavioral health crises.

(5) The crisis centers shall be available on a voluntary basis to individuals experiencing a behavioral health crisis. The centers shall provide transitional de-escalation, stabilization and community referral services only, and the centers shall not serve as inpatient or residential facilities.

(6) This chapter and any subsequent administrative rules shall not assume authority over other community efforts to assist Idahoans experiencing behavioral health crises.

39-9103. DEFINITIONS. (1) "Behavioral health" means an integrated or combined system for evaluation and treatment of mental health and substance use disorders.

(2) "Behavioral health community crisis center" or "crisis center" means a voluntary outpatient facility operated twenty-four (24) hours a day, seven (7) days a week and three hundred sixty-five (365) days a year to provide evaluation, intervention and referral for individuals experiencing

a crisis due to a behavioral health condition. The facility may not provide services to a client for more than twenty-three (23) hours and fifty-nine (59) minutes in a single episode of care.

(3) "Department" means the department of health and welfare.

(4) "Director" means the director of the department of health and welfare.

(5) "Region" means the administrative regions as defined by the department of health and welfare. Two (2) or more regions may consolidate for the purposes of this chapter. For the purposes of this chapter, regions will be consistent with judicial districts.

39-9104. GOVERNANCE OF BEHAVIORAL HEALTH COMMUNITY CRISIS CENTERS. (1) Crisis centers shall be directed by a board of directors. The board of directors shall guide the organization, implementation and operation of the crisis center.

(2) The board shall consist of no fewer than five (5) members and shall include, at a minimum, a local behavioral health consumer, a physician, law enforcement and a county commissioner from within the region.

(3) If the organization contracted for operation of the crisis centers is already governed by a board of directors, the board shall establish an advisory committee to advise it on the organization, implementation and operation of the crisis center.

(4) If the organization contracted for operation of the crisis center develops an advisory committee, the committee shall have no fewer than five (5) members and shall include a local behavioral health consumer, a physician, law enforcement and a county commissioner from within the region.

(5) The term of board or advisory committee membership, appointment authority for members and organizational structures shall be guided by bylaws, articles of incorporation or other policy directives established by the entity operating the facility.

(6) The department, as the state behavioral health authority established by section 39-3123, Idaho Code, shall oversee the crisis centers to ensure compliance with the intent of this chapter, application of the model, associated administrative rules and patient safety. The department shall be authorized to perform annual audits of crisis centers as necessary to fulfill its oversight responsibility.

39-9105. BEHAVIORAL HEALTH COMMUNITY CRISIS CENTER EVALUATION. Each crisis center shall annually evaluate the effectiveness and cost efficacy of its center and submit a report of findings to the department of health and welfare by August 1 of each year. The department shall annually report findings of the crisis center evaluations to germane committees of the Idaho legislature.

39-9106. BEHAVIORAL HEALTH COMMUNITY CRISIS CENTER FUNDING. Subject to appropriation by the legislature, the department shall be responsible for administering, allocating and distributing all appropriations from the legislature for crisis centers.

39-9107. COMMUNITY CONTRIBUTION. Communities that receive state funding to establish a crisis center shall, to the maximum extent possible, contribute financial or in-kind support to the development and operation of the crisis center.

39-9108. SERVICES TO BE NONDISCRIMINATORY -- FEES. No regional crisis center shall refuse service to any person because of race, color, religion or because of inability to pay. Persons receiving services may be charged fees for the services they receive. The crisis center fee determination schedule shall be approved by the department of health and welfare. Fees collected

by the crisis centers shall become part of their budget and utilized at the direction of the crisis center's board or governance committee.

39-9109. RULEMAKING AUTHORITY. The director is authorized to promulgate rules necessary to implement the provisions of this chapter that are consistent with its provisions.

Approved March 18, 2014

CHAPTER 132
(S.B. No. 1311, As Amended)

AN ACT

RELATING TO THE PUBLIC WORKS CONSTRUCTION MANAGEMENT LICENSING ACT; AMENDING SECTION 54-4503, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-4511, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO A CONSTRUCTION MANAGER REPRESENTATIVE, TO ESTABLISH PROVISIONS RELATING TO CONSTRUCTION MANAGER/GENERAL CONTRACTOR, TO REVISE PROVISIONS RELATING TO A PUBLIC ENTITY ENTERING INTO A CERTAIN CONTRACT FOR CERTAIN SERVICES AS A CONSTRUCTION MANAGER REPRESENTATIVE OR AS A CONSTRUCTION MANAGER/GENERAL CONTRACTOR AND TO ESTABLISH PROVISIONS RELATING TO COMPENSATION OF A CONSTRUCTION MANAGER; AND AMENDING SECTION 54-4512, IDAHO CODE, TO PROVIDE THAT A CONSTRUCTION MANAGER/GENERAL CONTRACTOR SHALL PROVIDE PAYMENT AND PERFORMANCE BONDS.

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

SECTION 1. That Section 54-4503, Idaho Code, be, and the same is hereby amended to read as follows:

54-4503. DEFINITIONS. As used in this chapter:

(1) "Applicant" means an individual who applies for a license or interim license pursuant to the provisions of this chapter.

(2) "Board" means the public works contractors state license board established in section 54-1905, Idaho Code.

(3) "Construction manager" means an individual who performs construction management services.

(4) "Construction management services" means representation of an owner in public works construction, ~~as defined in section 54-1901(2)(e), Idaho Code,~~ by a person with substantial discretion and authority to plan including scheduling, estimating and approval, coordinate, manage or direct phases of a project for the construction, demolition, alteration, repair or reconstruction of any public work. ~~This definition shall not include general contracting services provided by public works contractors who actually perform the work of construction, alteration, repair or reconstruction. This definition shall not include services for which the laws of this state require a person to be licensed as an architect or registered as a professional engineer, nor shall it include services traditionally and customarily provided by licensed architects or registered professional engineers. This definition shall not apply to highway, road or other transportation projects.~~

(5) "Firm" means any business organization, including individuals, partnerships, corporations, associations or any combination thereof acting as a unit.

(6) "Licensure" means the issuance of a license to an applicant under the provisions of this chapter authorizing such individual to offer and perform construction management services.

(7) "Person" includes an individual, partnership, corporation, association or other organization.

SECTION 2. That Section 54-4511, Idaho Code, be, and the same is hereby amended to read as follows:

54-4511. BIDDING AWARD OF CONTRACTS -- DUAL CAPACITY. (1) Construction manager representative (CMR). A licensed construction manager and the firm of which he is a principal or full-time employee may be awarded a contract to act only as representative for an owner. In soliciting bids or awarding contracts for public works construction to be entered into by the owner, a licensed construction manager representative shall comply with all notice and bidding laws with which an owner would be required to comply if it were to do the same activities without the assistance of a construction manager.

(2) A licensed construction manager representative and the firm of which he is a principal or employee shall not provide construction management services for a construction project on which the licensed construction manager or his firm also provides design services or other construction related services, whether as a contractor or subcontractor. Provided however, that this section shall not preclude a licensed architect or registered professional engineer from providing public works construction management services which are normally provided by licensed architects or registered professional engineers for a project on which the person or firm has provided design services. Such public works construction management services provided by a licensed architect or registered professional engineer shall not include the procurement of equipment or construction work required by law to be competitively bid for public works construction.

(2) Construction manager/general contractor (CM/GC). A licensed construction manager and the firm of which he is a principal or full-time employee may be awarded a contract to act as both construction manager and general contractor provided the construction manager/general contractor has a valid public works contractor license as a general contractor pursuant to section 54-1902, Idaho Code.

(3) No public entity shall enter into a contract with any person or firm for construction management services as construction manager representative or as construction manager/general contractor if such person or firm is required to be licensed under this chapter unless:

(a) Such person holds a valid license or such firm holds a valid certificate issued pursuant to this chapter; and

(b) The selection of such construction manager representative or construction manager/general contractor is made pursuant to section 67-2320, Idaho Code.

(4) Compensation of a construction manager shall be determined pursuant to section 67-2320, Idaho Code. At such time as the design of a project is available, the construction work, materials and equipment for construction of a project may be incorporated into the construction manager/general contractor contract based upon bids solicited from licensed public works contractors and from suppliers. All construction work, materials and equipment shall be competitively bid to be opened publicly in the presence of a representative of the public body for whom the project is undertaken and shall be awarded to the lowest responsible bidders. The construction manager/general contractor, or its subsidiaries and affiliated companies, may bid to perform construction work or supply materials or equipment for which it holds a valid license pursuant to section 54-1902, Idaho Code, and which it customarily self-performs or supplies.

SECTION 3. That Section 54-4512, Idaho Code, be, and the same is hereby amended to read as follows:

54-4512. REQUIREMENT OF BOND. A licensed construction manager representative or firm providing public works construction management services shall be required to post a payment and performance bond or bonds in the amount of the total construction management contract to secure the construction manager's obligations thereunder. A construction manager/general contractor shall provide payment and performance bonds to secure construction of the project in the amounts required in section 54-1926, Idaho Code.

Approved March 19, 2014

CHAPTER 133
(S.B. No. 1238)

AN ACT

RELATING TO COUNTIES; REPEALING SECTION 31-2307, IDAHO CODE, RELATING TO THE ANNUAL STATEMENT OF THE FINANCIAL CONDITION OF A COUNTY.

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

SECTION 1. That Section 31-2307, Idaho Code, be, and the same is hereby repealed.

Approved March 19, 2014

CHAPTER 134
(S.B. No. 1246)

AN ACT

RELATING TO ESTATES; AMENDING SECTION 15-3-101, IDAHO CODE, TO REMOVE A REFERENCE TO FAMILY ALLOWANCE; AMENDING SECTION 15-3-1006, IDAHO CODE, TO REVISE TIME LIMITATION PROVISIONS RELATING TO CREDITOR CLAIMS AGAINST DISTRIBUTEES; AMENDING SECTION 15-3-1203 IDAHO CODE, TO REMOVE REFERENCES TO FAMILY ALLOWANCE AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 15-3-1204, IDAHO CODE, TO REMOVE REFERENCES TO FAMILY ALLOWANCE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 15-3-101, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-101. DEVOLUTION OF ESTATE AT DEATH -- RESTRICTIONS. The power of a person to leave property by will, and the rights of creditors, devisees, and heirs to his property are subject to the restrictions and limitations contained in this code to facilitate the prompt settlement of estates. Upon the death of a person, his separate property devolves to the persons to whom it is devised by his last will, or to those indicated as substitutes for them in cases involving lapse, renunciation or other circumstances affecting the devolution of testate estates, or in the absence of testamentary disposition to his heirs, or to those indicated as substitutes for them in cases involving renunciation or other circumstances affecting the devolution of intestate estates, and upon the death of a husband or wife, the decedent's share of their community property devolves to the persons to whom it is devised by his last will, or in the absence of testamentary disposition, to the surviving spouse, but all of their community property which is under the management and control of the decedent is subject to his debts and administration, and

that portion of their community property which is not under the management and control of the decedent but which is necessary to carry out the provisions of his will is subject to administration; but the devolution of all the above described property is subject to rights to homestead allowance, exempt property and family allowances, to renunciation to rights of creditors, elective share of the surviving spouse and to administration.

SECTION 2. That Section 15-3-1006, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-1006. LIMITATIONS ON ACTIONS AND PROCEEDINGS AGAINST DISTRIBUTEES. Unless previously adjudicated in a formal testacy proceeding or in a proceeding settling the accounts of a personal representative or otherwise barred, the claim of any claimant to recover from a distributee who is liable to pay the claim, and the right of any heir or devisee, or of a successor personal representative acting in their behalf, to recover property improperly distributed or the value thereof from any distributee is forever barred at the later of (i) three (3) years after the decedent's death; or (ii) one (1) year after the time of distribution thereof, except if the claim is by a creditor of the decedent, it is forever barred ~~two~~ three (23) years after the decedent's death. This section does not bar an action to recover property or value received as the result of fraud, or an action commenced by the state tax commission to collect state taxes.

SECTION 3. That Section 15-3-1203, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-1203. SMALL ESTATES -- SUMMARY ADMINISTRATIVE PROCEDURE. If it appears from the inventory and appraisal that the value of the entire estate, less liens and encumbrances, does not exceed homestead allowance, exempt property, ~~family allowance~~, costs and expenses of administration, reasonable funeral expenses, and reasonable and necessary medical and hospital expenses of the last illness of the decedent, the personal representative, without giving notice to creditors, may immediately disburse and distribute the estate to the persons entitled thereto and file a closing statement as provided in section 15-3-1204 of this Ppart.

SECTION 4. That Section 15-3-1204, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-1204. SMALL ESTATES -- CLOSING BY SWORN STATEMENT OF PERSONAL REPRESENTATIVE. (a) Unless prohibited by order of the court and except for estates being administered by supervised personal representatives, a personal representative may close an estate administered under the summary procedures of section 15-3-1203 of this Ppart by filing with the court, at any time after disbursement and distribution of the estate, a verified statement that:

- (1) ~~to~~ To the best knowledge of the personal representative, the value of the entire estate, less liens and encumbrances, did not exceed homestead allowance, exempt property, ~~family allowance~~, costs and expenses of administration, reasonable funeral expenses, and reasonable, necessary medical and hospital expenses of the last illness of the decedent;
- (2) ~~The~~ The personal representative has fully administered the estate by disbursing and distributing it to the persons entitled thereto; and
- (3) ~~The~~ The personal representative has sent a copy of the closing statement to all distributees of the estate and to all creditors or other claimants of whom he is aware whose claims are neither paid nor barred and has furnished a full account in writing of his administration to the distributees whose interests are affected.

(b) If no actions or proceedings involving the personal representative are pending in the court one (1) year after the closing statement is filed, the appointment of the personal representative terminates.

(c) A closing statement filed under this section has the same effect as one filed under section 15-3-1003 of this code.

Approved March 19, 2014

CHAPTER 135
(S.B. No. 1247, As Amended)

AN ACT

RELATING TO GUARDIANSHIPS; AMENDING CHAPTER 5, TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 15-5-318, IDAHO CODE, TO ESTABLISH PROVISIONS FOR TERMINATION OR MODIFICATION OF A GUARDIANSHIP.

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

SECTION 1. That Chapter 5, Title 15, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 15-5-318, Idaho Code, and to read as follows:

15-5-318. TERMINATION OR MODIFICATION OF GUARDIANSHIP. (1) A guardianship terminates upon the death of the ward or upon order of the court.

(2) On petition of a ward, a guardian, or another person interested in the ward's welfare, the court may terminate a guardianship if the ward no longer needs the assistance or protection of a guardian. The court may modify the type of appointment or powers granted to the guardian if the extent of protection or assistance previously granted is currently excessive or insufficient or the ward's capacity to provide for support, care, education, health, and welfare has so changed as to warrant that action.

(3) Except as otherwise ordered by the court for good cause, the court, before terminating a guardianship, shall follow the same procedures to safeguard the rights of the ward as apply to a petition for guardianship. Upon presentation by the petitioner of evidence establishing a prima facie case for termination, the court shall order the termination unless it is proven that continuation of the guardianship is in the best interest of the ward.

Approved March 19, 2014

CHAPTER 136
(S.B. No. 1274, As Amended)

AN ACT

RELATING TO BOATING; REPEALING SECTION 67-7016, IDAHO CODE, RELATING TO GROSSLY NEGLIGENT OPERATION; AMENDING CHAPTER 70, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7016, IDAHO CODE, TO PROVIDE FOR GROSSLY NEGLIGENT OPERATION, TO PROVIDE FOR VIOLATIONS AND TO PROVIDE FOR PENALTIES.

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

SECTION 1. That Section 67-7016, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 70, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-7016, Idaho Code, and to read as follows:

67-7016. GROSSLY NEGLIGENT OPERATION. Any person who operates any motorized vessel on the waters of the state of Idaho without due caution and circumspection, and in a manner as to endanger or be likely to endanger any person or property, shall be guilty of grossly negligent operation and upon conviction shall be punished as provided in 67-7033.

Approved March 19, 2014

CHAPTER 137
(S.B. No. 1283, As Amended)

AN ACT

RELATING TO RIGHTS-OF-WAY; AMENDING SECTION 40-203, IDAHO CODE, TO PROVIDE FOR THE ABANDONMENT OR VACATION OF ANY HIGHWAY, PUBLIC STREET OR PUBLIC RIGHT-OF-WAY THAT WAS ACCEPTED AS PART OF A RECORDED PLATTED SUBDIVISION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-1306A, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND AMENDING SECTION 50-1317, IDAHO CODE, TO REMOVE REFERENCE TO PUBLIC RIGHTS-OF-WAY, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 40-203, Idaho Code, be, and the same is hereby amended to read as follows:

40-203. ABANDONMENT AND VACATION OF COUNTY AND HIGHWAY DISTRICT SYSTEM HIGHWAYS OR PUBLIC RIGHTS-OF-WAY. (1) A board of county or highway district commissioners, whichever shall have jurisdiction of the highway system, shall use the following procedure to abandon and vacate any highway or public right-of-way in the county or highway district system including those which furnish public access to state and federal public lands and waters:

(a) The commissioners may by resolution declare their intention to abandon and vacate any highway or public right-of-way, or to reclassify a public highway as a public right-of-way, where doing so is in the public interest.

(b) Any resident, or property holder, within a county or highway district system including the state of Idaho, any of its subdivisions, or any agency of the federal government may petition the respective commissioners for abandonment and vacation of any highway or public right-of-way within their highway system. The petitioner shall pay a reasonable fee as determined by the commissioners to cover the cost of the proceedings.

(c) The commissioners shall establish a hearing date or dates on the proposed abandonment and vacation.

(d) The commissioners shall prepare a public notice stating their intention to hold a public hearing to consider the proposed abandonment and vacation of a highway or public right-of-way which shall be made available to the public not later than thirty (30) days prior to any hearing and mailed to any person requesting a copy not more than three (3) working days after any such request.

(e) At least thirty (30) days prior to any hearing scheduled by the commissioners to consider abandonment and vacation of any highway or public right-of-way, the commissioners shall mail notice by United States mail to known owners and operators of an underground facility, as de-

fined in section 55-2202, Idaho Code, that lies within the highway or public right-of-way.

(f) At least thirty (30) days prior to any hearing scheduled by the commissioners to consider abandonment and vacation of any highway or public right-of-way, the commissioners shall mail notice to owners of record of land abutting the portion of the highway or public right-of-way proposed to be abandoned and vacated at their addresses as shown on the county assessor's tax rolls and shall publish notice of the hearing at least two (2) times if in a weekly newspaper or three (3) times if in a daily newspaper, the last notice to be published at least five (5) days and not more than twenty-one (21) days before the hearing.

(g) At the hearing, the commissioners shall accept all information relating to the proceedings. Any person, including the state of Idaho or any of its subdivisions, or any agency of the federal government, may appear and give testimony for or against abandonment.

(h) After completion of the proceedings and consideration of all related information, the commissioners shall decide whether the abandonment and vacation of the highway or public right-of-way is in the public interest of the highway jurisdiction affected by the abandonment or vacation. The decision whether or not to abandon and vacate the highway or public right-of-way shall be written and shall be supported by findings of fact and conclusions of law.

(i) If the commissioners determine that a highway or public right-of-way parcel to be abandoned and vacated in accordance with the provisions of this section has a fair market value of ~~twenty-five~~ two thousand five hundred dollars (\$2,500) or more, a charge may be imposed upon the acquiring entity, not in excess of the fair market value of the parcel, as a condition of the abandonment and vacation; provided, however, no such charge shall be imposed on the landowner who originally dedicated such parcel to the public for use as a highway or public right-of-way; and provided further, that if the highway or public right-of-way was originally a federal land right-of-way, said highway or public right-of-way shall revert to a federal land right-of-way.

(j) The commissioners shall cause any order or resolution to be recorded in the county records and the official map of the highway system to be amended as affected by the abandonment and vacation.

(k) From any such decision, a resident or property holder within the county or highway district system, including the state of Idaho or any of its subdivisions or any agency of the federal government, may appeal to the district court of the county in which the highway or public right-of-way is located pursuant to section 40-208, Idaho Code.

(2) No highway or public right-of-way or parts thereof shall be abandoned and vacated so as to leave any real property adjoining the highway or public right-of-way without access to an established highway or public right-of-way. The burden of proof shall be on the impacted property owner to establish this fact.

(3) In the event of abandonment and vacation, rights-of-way or easements shall be reserved for the continued use of existing sewer, gas, water, or similar pipelines and appurtenances, or other underground facilities as defined in section 55-2202, Idaho Code, for ditches or canals and appurtenances, and for electric, telephone and similar lines and appurtenances.

(4) (a) When a county or highway district is to consider the abandonment or vacation of any highway, public street or public right-of-way that was accepted as part of a recorded platted subdivision, such abandonment shall be accomplished pursuant to the provisions of this section.

(b) When a county or highway district desires is to consider the abandonment or vacation of any highway, public street or public private right-of-way which that was accepted as part of a recorded platted sub-

division said abandonment or vacation shall be accomplished pursuant to the provisions of chapter 13, title 50, Idaho Code.

(5) In any proceeding under this section or section 40-203A, Idaho Code, or in any judicial proceeding determining the public status or width of a highway or public right-of-way, a highway or public right-of-way shall be deemed abandoned if the evidence shows:

(a) That said highway or public right-of-way was created solely by a particular type of common law dedication, to wit, a dedication based upon a plat or other document that was not recorded in the official records of an Idaho county;

(b) That said highway or public right-of-way is not located on land owned by the United States or the state of Idaho nor on land entirely surrounded by land owned by the United States or the state of Idaho nor does it provide the only means of access to such public lands; and

(c) (i) That said highway or public right-of-way has not been used by the public and has not been maintained at the expense of the public in at least three (3) years during the previous fifteen (15) years; or

(ii) Said highway or right-of-way was never constructed and at least twenty (20) years have elapsed since the common law dedication.

All other highways or public rights-of-way may be abandoned and vacated only upon a formal determination by the commissioners pursuant to this section that retaining the highway or public right-of-way for use by the public is not in the public interest, and such other highways or public rights-of-way may be validated or judicially determined at any time notwithstanding any other provision of law. Provided that any abandonment under this subsection shall be subject to and limited by the provisions of subsections (2) and (3) of this section.

SECTION 2. That Section 50-1306A, Idaho Code, be, and the same is hereby amended to read as follows:

50-1306A. VACATION OF PLATS -- PROCEDURE. (1) Any person, persons, firm, association, corporation or other legally recognized form of business desiring to vacate a plat or any part thereof which is inside or within one (1) mile of the boundaries of any city must petition the city council to vacate. Such petition shall set forth particular circumstances of the requests to vacate; contain a legal description of the platted area or property to be vacated; the names of the persons affected thereby, and said petition shall be filed with the city clerk.

(2) Written notice of public hearing on said petition shall be given, by certified mail with return receipt, at least ten (10) days prior to the date of public hearing to all property owners within three hundred (300) feet of the boundaries of the area described in the petition. Such notice of public hearing shall also be published once a week for two (2) successive weeks in the official newspaper of the city, the last of which shall be not less than seven (7) days prior to the date of said hearing; provided, however, that in a proceeding as to the vacation of all or a portion of a cemetery plat where there has been no interment, or in the case of a cemetery being within three hundred (300) feet of another plat for which a vacation is sought, publication of the notice of hearing shall be the only required notice as to the property owners in the cemetery.

(3) When the procedures set forth herein have been fulfilled, the city council may grant the request to vacate with such restrictions as they deem necessary in the public interest.

(4) When the platted area lies more than one (1) mile beyond the city limits, the procedures set forth herein shall be followed with the county commissioners of the county wherein the property lies. The county commis-

sioners shall have authority, comparable to the city council, to grant the vacation, provided, however, when the platted area lies beyond one (1) mile of the city limits, but adjacent to a platted area within one (1) mile of the city, consent of the city council of the affected city shall be necessary in granting any vacation by the county commissioners.

(5) In the case of easements granted for gas, sewer, water, telephone, cable television, power, drainage, and slope purposes, public notice of intent to vacate is not required. Vacation of these easements shall occur upon the recording of the new or amended plat, provided that all affected easement holders have been notified by certified mail, return receipt requested, of the proposed vacation and have agreed to the same in writing.

(6) When public streets or public rights-of-way are located within the boundary of a highway district, the highway district commissioners shall assume the authority to vacate said public streets and public rights-of-way as provided in ~~subsection (4) of this section~~ 40-203, Idaho Code.

(7) All publication costs shall be at the expense of the petitioner.

(8) Public highway agencies acquiring real property within a platted subdivision for highway right-of-way purposes shall be exempt from the provisions of this section.

(9) Land exclusive of public right-of-way that has been subdivided and platted in accordance with this chapter need not be vacated in order to be replatted.

SECTION 3. That Section 50-1317, Idaho Code, be, and the same is hereby amended to read as follows:

50-1317. VACATION PROCEDURE IN UNINCORPORATED AREAS AND IN CITIES NOT EXERCISING THEIR CORPORATE FUNCTIONS -- FILING OF PETITION -- NOTICE OF HEARING. Whenever any person, persons, firm, association or corporation interested in any city which ~~if unincorporated, or which, if incorporated,~~ is not exercising its corporate functions, ~~or interested in any platted and subdivided tract or acreage outside the limits of any incorporated city,~~ may desire to vacate any lot, tract, ~~public street, public right-of-way,~~ private road, common, plot or any part thereof in any such city, it shall be lawful to petition the board of county commissioners of the county where such property is located, setting forth the particular circumstances of the case, and giving a distinct description of the property to be vacated and the names of the persons to be particularly affected thereby; which petition shall be filed with the appropriate county or highway district clerk and notice of the pendency of said petition shall be given for a period of thirty (30) days by written notice thereof, containing a description of the property to be vacated, posted in three (3) public or conspicuous places in said city, and also within the limits of said platted acreage, or in the event such property is located within a county in which there is published a newspaper, as defined by law, such notice shall also be published in such newspaper, once a week for two (2) successive weeks. Provided, however, when a public street or public right-of-way is located within the boundary of a highway district or is under the jurisdiction of a county, the respective commissioners of the highway district or board of county commissioners shall assume the authority to vacate said public street or public right-of-way pursuant to section 40-203, Idaho Code. Land exclusive of public right-of-way that has been subdivided and platted in accordance with this chapter need not be vacated in order to be replatted.

Approved March 19, 2014

CHAPTER 138
(S.B. No. 1287)

AN ACT

RELATING TO THE STATE BOARD OF EDUCATION; AMENDING SECTION 33-102, IDAHO CODE, TO REVISE A DATE, TO REVISE PROVISIONS RELATING TO TERMS OF OFFICE AND APPOINTMENTS, TO PROVIDE THAT MEMBERS SHALL ASSUME FULL POWERS AND DUTIES UPON APPOINTMENT, TO PROVIDE THAT APPOINTMENT SHALL BE SUBJECT TO CONFIRMATION BY THE SENATE.

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

SECTION 1. That Section 33-102, Idaho Code, be, and the same is hereby amended to read as follows:

33-102. MEMBERSHIP -- APPOINTMENT -- TERM OF OFFICE -- QUALIFICATIONS -- PLACE OF OFFICE. The state board of education shall consist of the state superintendent of public instruction, who shall be an ex officio voting member and who shall serve as executive secretary of the board for all elementary and secondary school matters, and seven (7) members appointed by the governor, each for a term of five (5) years. Annually on the first day of ~~March~~ July the governor shall appoint members to fill the board positions for which the terms of office have expired. Upon the expiration date of the term of office, a member shall continue to serve until a successor shall have been appointed. The governor shall, by appointment, fill any vacancy on the board, such appointment to be for the unexpired term of the retiring member. Appointment to the board shall be made solely upon consideration of the ability of such appointees efficiently to serve the interests of the people, and education, without reference to locality, occupation, party affiliation or religion. Any person appointed to said board shall have been a resident of the state for not less than three (3) years prior to the date of appointment; and shall qualify and assume the duties in accordance with laws governing similar appointments to, and qualifications for, office on other state boards. ~~All appointments of members to the state board of education made after the effective date of this act must be confirmed by the senate~~ Members shall act and assume full powers and duties upon appointment, but such appointments shall be subject to confirmation by the senate at its next regular session.

~~Members of the state board of education holding office on the effective date of this act shall continue in office for the balance of the term to which they were appointed.~~

The state board shall have and maintain its office in Ada county.

Approved March 19, 2014

CHAPTER 139
(S.B. No. 1288, As Amended)

AN ACT

RELATING TO NURSES; AMENDING SECTION 54-1413, IDAHO CODE, TO REVISE A PROVISION RELATING TO DISCIPLINE AND TO PROVIDE THAT CERTAIN CONDUCT WITH A PATIENT MAY BE GROUNDS FOR DISCIPLINE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-1413, Idaho Code, be, and the same is hereby amended to read as follows:

54-1413. DISCIPLINARY ACTION. (1) Grounds for discipline. The board shall have the power to refuse to issue, renew or reinstate a license issued pursuant to this chapter, and may revoke, suspend, place on probation, reprimand, limit, restrict, condition or take other disciplinary action against the licensee as it deems proper, including assessment of the costs of investigation and discipline against the licensee, upon a determination by the board that the licensee engaged in conduct constituting any one (1) of the following grounds:

- (a) Made, or caused to be made, a false, fraudulent or forged statement or representation in procuring or attempting to procure a license to practice nursing;
- (b) Practiced nursing under a false or assumed name;
- (c) Is convicted of a felony or of any offense involving moral turpitude;
- (d) Is or has been grossly negligent or reckless in performing nursing functions;
- (e) Habitually uses alcoholic beverages or drugs as defined by rule;
- (f) Is physically or mentally unfit to practice nursing;
- (g) Violates the provisions of this chapter or rules and standards of conduct and practice as may be adopted by the board;
- (h) Otherwise engages in conduct of a character likely to deceive, defraud or endanger patients or the public, which includes, but is not limited to, failing or refusing to report criminal conduct or other conduct by a licensee that endangers patients;
- (i) ~~Has had a license to practice nursing suspended or revoked~~ been disciplined by a nursing regulatory authority in any jurisdiction. A certified copy of the order of suspension or revocation entered by the jurisdiction shall be prima facie evidence of such suspension or revocation discipline; or
- (j) Failure to comply with the terms of any board order, negotiated settlement or probationary agreement of the board, or to pay fines or costs assessed in a prior disciplinary proceeding; or
- (k) Engaging in conduct with a patient that is sexual, sexually exploitative, sexually demeaning or may reasonably be interpreted as sexual, sexually exploitative or sexually demeaning; or engaging in conduct with a former patient that is sexually exploitative or may reasonably be interpreted as sexually exploitative. It would not be a violation under this subsection for a nurse to continue a sexual relationship with a spouse or individual of majority if a consensual sexual relationship existed prior to the establishment of the nurse-patient relationship.

(2) Separate offense. Each day an individual violates any of the provisions of this chapter or rules and standards of conduct and practice as may be adopted by the board shall constitute a separate offense.

(3) Proceedings.

(a) The executive director shall conduct such investigations and initiate such proceedings as necessary to ensure compliance with this section. The board may accept the voluntary surrender of a license from any nurse under investigation and accordingly enter an order revoking or suspending such license and/or imposing such conditions, limitations, or restrictions on the practice of any such nurse as may be appropriate in the discretion of the board. Otherwise, every person subject to disciplinary proceedings shall be afforded an opportunity for hearing after reasonable notice. All proceedings hereunder shall be in accordance with chapter 52, title 67, Idaho Code.

(b) Hearings shall be conducted by the board or by persons appointed by the board to conduct hearings and receive evidence. The board and any person duly appointed by the board to conduct hearings shall have all powers as are necessary and incident to orderly and effective re-

ceipt of evidence including, but not limited to, the power to administer oaths and to compel by subpoena attendance of witnesses and production of books, records and things at the hearing or at a deposition taken by a party in accordance with the Idaho rules of civil procedure. Any party shall be entitled to the use of subpoena upon application therefor.

(c) In the event any person fails to comply with a subpoena personally served upon him or refuses to testify to any matter regarding which he may be lawfully interrogated, the board shall petition the district court in the county where such failure or refusal occurred or where such person resides, to enforce such subpoena or compel such testimony. Proceedings before the district court shall be for contempt in the same nature as contempt of court for failure or refusal to comply with an order of the court and the court shall have the same powers to secure compliance with subpoena and testimony or to impose penalties as in contempt of court proceedings.

(4) Probation/Subsequent review. Any order of the board entered under this section may be withheld or suspended for a probationary period to be fixed by the board upon such terms and conditions as may be appropriate in order to regulate, monitor and/or supervise the practice of nursing by the licensee subject to such order for the prescribed probationary period. Any order of the board entered under this section may be withdrawn, reversed, modified or amended upon a showing by the person subject to the order that the grounds for discipline no longer exist or that he is rehabilitated, qualified and competent to practice nursing and that he is not likely to violate this chapter or rules adopted hereunder in the future. The board may, as a condition to withdrawal, reversal, modification or amendment of the order, require the person to pay all or part of the costs incurred by the board in proceedings upon which the order was entered.

(5) Reporting investigative information.

(a) Nothing in section 9-340C(8) and (9), Idaho Code, shall be construed as limiting the authority of the board to report current significant investigative information to the coordinated licensure information system for transmission to states that are parties to any multistate agreements or compacts regarding nurse licensure.

(b) The executive director of the board may, in the administration of this chapter, share information and otherwise cooperate with government regulatory and law enforcement agencies.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 19, 2014

CHAPTER 140
(S.B. No. 1293)

AN ACT

RELATING TO ADOPTION; AMENDING SECTION 16-1504, IDAHO CODE, TO REVISE A PROVISION RELATING TO WHEN AN UNMARRIED BIOLOGICAL FATHER HAS MANIFESTED A FULL COMMITMENT TO HIS PARENTAL RESPONSIBILITIES AND TO REVISE PROVISIONS RELATING TO WHEN AN UNMARRIED BIOLOGICAL FATHER IS DEEMED TO HAVE WAIVED AND SURRENDERED ANY RIGHT IN RELATION TO A CHILD; AND AMENDING SECTION 16-1513, IDAHO CODE, TO REVISE A PROVISION RELATING TO WHEN AN UNMARRIED BIOLOGICAL FATHER IS DEEMED TO HAVE WAIVED AND SURRENDERED ANY RIGHT IN RELATION TO A CHILD.

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

SECTION 1. That Section 16-1504, Idaho Code, be, and the same is hereby amended to read as follows:

16-1504. NECESSARY CONSENT TO ADOPTION. (1) Consent to adoption is required from:

- (a) The adoptee, if he is more than twelve (12) years of age, unless he does not have the mental capacity to consent;
- (b) Both parents or the surviving parent of an adoptee who was conceived or born within a marriage, unless the adoptee is eighteen (18) years of age or older;
- (c) The mother of an adoptee born outside of marriage;
- (d) Any biological parent who has been adjudicated to be the child's biological father by a court of competent jurisdiction prior to the mother's execution of consent;
- (e) An unmarried biological father of an adoptee only if the requirements and conditions of subsection (2) (a) or (b) of this section have been proven;
- (f) Any legally appointed custodian or guardian of the adoptee;
- (g) The guardian or conservator of an incapacitated adult, if one has been appointed;
- (h) The adoptee's spouse, if any;
- (i) An unmarried biological father who has filed a voluntary acknowledgment of paternity with the vital statistics unit of the department of health and welfare pursuant to section 7-1106, Idaho Code; and
- (j) The father of an illegitimate child who has adopted the child by acknowledgment.

(2) In accordance with subsection (1) of this section, the consent of an unmarried biological father is necessary only if the father has strictly complied with all requirements of this section.

- (a) (i) With regard to a child who is placed with adoptive parents more than six (6) months after birth, an unmarried biological father shall have developed a substantial relationship with the child, taken some measure of responsibility for the child and the child's future, and demonstrated a full commitment to the responsibilities of parenthood by financial support of the child, of a fair and reasonable sum and in accordance with the father's ability, when not prevented from doing so by the person or authorized agency having lawful custody of the child, and either:
 - 1. Visiting the child at least monthly when physically and financially able to do so, and when not prevented from doing so by the person or authorized agency having lawful custody of the child; or
 - 2. Have regular communication with the child or with the person or agency having the care or custody of the child, when physically and financially unable to visit the child, and when not prevented from doing so by the person or authorized agency having lawful custody of the child.
- (ii) The subjective intent of an unmarried biological father, whether expressed or otherwise, unsupported by evidence of acts specified in this subsection shall not preclude a determination that the father failed to meet any one (1) or more of the requirements of this subsection.
- (iii) An unmarried biological father who openly lived with the child for a period of six (6) months within the one (1) year period after the birth of the child and immediately preceding placement of the child with adoptive parents, and who openly held himself out to be the father of the child during that period, shall be deemed

to have developed a substantial relationship with the child and to have otherwise met all of the requirements of this subsection.

(b) With regard to a child who is under six (6) months of age at the time he is placed with adoptive parents, an unmarried biological father shall have manifested a full commitment to his parental responsibilities by performing all of the acts described in this subsection and prior to the date of the filing of any proceeding to terminate the parental rights of the birth mother; the filing of any proceeding to adopt the child; or the execution of a consent to terminate the birth mother's parental rights under the provisions of section 16-2005(4), Idaho Code, whichever occurs first. The father shall have strictly complied with all of the requirements of this subsection by:

(i) Filing proceedings to establish paternity under section 7-1111, Idaho Code, and filing with that court a sworn affidavit stating that he is fully able and willing to have full custody of the child, setting forth his plans for the care of the child, and agreeing to a court order of child support and the payment of expenses incurred in connection with the mother's pregnancy and the child's birth;

(ii) Filing a notice of the proceedings to establish his paternity of the child with the vital statistics unit of the department of health and welfare pursuant to section 16-1513, Idaho Code; and

(iii) If he had actual knowledge of the pregnancy, paying a fair and reasonable amount of the expenses incurred in connection with the mother's pregnancy and the child's birth, in accordance with his means, and when not prevented from doing so by the person or authorized agency having lawful custody of the child.

(3) An unmarried biological father whose consent is required under subsection (1) or (2) of this section may nevertheless lose his right to consent if the court determines, in accordance with the requirements and procedures of the termination of parent and child relationship act, sections 16-2001 through 16-2015, Idaho Code, that his rights should be terminated, based on the petition of any party as set forth in section 16-2004, Idaho Code.

(4) In any adoption proceeding pertaining to a child born out of wedlock, if there is no showing that an unmarried biological father has consented to or waived his rights regarding a proposed adoption, the petitioner shall file with the court a certificate from the vital statistics unit of the department of health and welfare, signed by the state registrar of vital statistics, stating that a diligent search has been made of the registry of notices from putative fathers, of a child born out of wedlock, and that the putative father involved has not filed notice of the proceedings to establish his paternity, or if a filing is found, stating the name of the putative father and the time and date of filing. That certificate shall be filed with the court prior to the entrance of the final decree of adoption.

(5) An unmarried biological father who does not fully and strictly comply with each of the conditions provided in this section is deemed to have waived and surrendered any right in relation to the child, including the right to notice of any judicial proceeding in connection with the adoption of the child, or for termination of parental rights and his consent to the adoption of the child is not required unless he proves, by clear and convincing evidence, all of the following:

(a) It was not possible for him, prior to the filing of a proceeding to terminate parental rights of the birth mother; the filing of any proceeding to adopt the child; or the execution of a consent to terminate the birth mother's parental rights under the provisions of section 16-2005(4), Idaho Code, whichever occurs first, to:

(i) Commence proceedings to establish paternity of his child in accordance with section 7-1111, Idaho Code; and

(ii) File notice of the filing of proceedings to establish his paternity of the child with the vital statistics unit of the department of health and welfare in accordance with section 16-1513, Idaho Code;

(b) His failure to timely file notice of the filing of proceedings to establish his paternity of the child with the vital statistics unit of the department of health and welfare in accordance with section 16-1513, Idaho Code, and his failure to commence timely proceedings to establish paternity of his child in accordance with section 7-1111, Idaho Code, was through no fault of his own; and

(c) He filed notice of the filing of proceedings to establish paternity of his child in accordance with section 7-1111, Idaho Code, with the vital statistics unit of the department of health and welfare in accordance with section 16-1513, Idaho Code, and filed proceedings to establish his paternity of the child within ten (10) days after the birth of the child. Lack of knowledge of the pregnancy is not an acceptable reason for his failure to timely file notice of the commencement of proceedings or for his failure to commence timely proceedings.

(6) A minor parent has the power to consent to the adoption of his or her child. That consent is valid and has the same force and effect as a consent executed by an adult parent. A minor parent, having executed a consent, cannot revoke that consent upon reaching the age of majority or otherwise becoming emancipated.

(7) No consent shall be required of, nor notice given to, any person whose parental relationship to such child shall have been terminated in accordance with the provisions of either chapter 16 or 20, title 16, Idaho Code, or by a court of competent jurisdiction of a sister state under like proceedings; or in any other manner authorized by the laws of a sister state. Where a voluntary child placement agency licensed by the state in which it does business is authorized to place a child for adoption and to consent to such child's adoption under the laws of such state, the consent of such agency to the adoption of such child in a proceeding within the state of Idaho shall be valid and no further consents or notices shall be required.

(8) The legislature finds that an unmarried biological father who resides in another state may not, in every circumstance, be reasonably presumed to know of, and strictly comply with, the requirements of this chapter. Therefore, when all of the following requirements have been met, that unmarried biological father may contest an adoption prior to finalization of the decree of adoption and assert his interest in the child:

(a) The unmarried biological father resides and has resided in another state where the unmarried mother was also located or resided;

(b) The mother left that state without notifying or informing the unmarried biological father that she could be located in the state of Idaho;

(c) The unmarried biological father has, through every reasonable means, attempted to locate the mother but does not know or have reason to know that the mother is residing in the state of Idaho; and

(d) The unmarried biological father has complied with the most stringent and complete requirements of the state where the mother previously resided or was located in order to protect and preserve his parental interest and rights in the child in cases of adoption.

(9) An unmarried biological father may, under the provisions of section 7-1107, Idaho Code, file a proceeding to establish his paternity prior to the birth of the child; however, such paternity proceeding must be filed prior to the date of the filing of any proceeding to terminate parental rights of the birth mother; the filing of any proceeding to adopt the child; or the execution of a consent to terminate the birth mother's parental rights under the provisions of section 16-2005(4), Idaho Code, whichever occurs first.

SECTION 2. That Section 16-1513, Idaho Code, be, and the same is hereby amended to read as follows:

16-1513. REGISTRATION OF NOTICE AND FILING OF PATERNITY PROCEEDINGS. (1) A person who is the father or claims to be the father of a child born out of wedlock may claim rights pertaining to his paternity of the child by commencing proceedings to establish paternity under section 7-1111, Idaho Code, and by filing with the vital statistics unit of the department of health and welfare notice of his filing of proceedings to establish his paternity of the child born out of wedlock. The vital statistics unit of the department of health and welfare shall provide forms for the purpose of filing the notice of filing of paternity proceedings, and the forms shall be made available through the vital statistics unit of the Idaho department of health and welfare and in the office of the county clerk in every county of this state. The forms shall include a written notification that filing pursuant to this section shall not satisfy the requirements of chapter 82, title 39, Idaho Code, and the notification shall also include the following statements:

(a) A parent may make a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code, as provided by section 39-8206, Idaho Code, by filing a notice of claim of parental rights with the vital statistics unit of the department of health and welfare on a form as prescribed and provided by the vital statistics unit of the department of health and welfare;

(b) The vital statistics unit of the department of health and welfare shall maintain a separate registry for claims to abandoned children, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code;

(c) The department shall provide forms for the purpose of filing a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code, and the forms shall be made available through the vital statistics unit of the Idaho department of health and welfare and in the office of the county clerk in every county of this state;

(d) To be valid, a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code, must be filed before an order terminating parental rights is entered by the court. A parent that fails to file a claim of parental rights prior to entry of an order terminating their parental rights is deemed to have abandoned the child and waived and surrendered any right in relation to the child, including the right to notice of any judicial proceeding in connection with the termination of parental rights or adoption of the child;

(e) Registration of notice of filing of paternity proceedings pursuant to chapter 15, title 16, Idaho Code, shall not satisfy the requirements of chapter 82, title 39, Idaho Code. To register a parental claim to an abandoned child, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code, an individual must file an abandoned child registry claim with the vital statistics unit of the department of health and welfare and comply with all other provisions of chapter 82, title 39, Idaho Code, in the time and manner prescribed, in order to preserve parental rights to the child.

When filing a notice of the filing of paternity proceedings, a person who claims to be the father of a child born out of wedlock shall file with the vital statistics unit of the department of health and welfare the completed form prescribed by the vital statistics unit of the department of health and welfare. Said form will be filled out completely, signed by the person claiming paternity, and witnessed before a notary public.

(2) The notice of the filing of paternity proceedings may be filed prior to the birth of the child, but must be filed prior to the date of the filing of any proceeding to terminate the parental rights of the birth mother. The notice of the filing of paternity proceedings shall be signed by the person filing the notice and shall include his name and address, the name and last address of the mother, and either the birth date of the child or the probable month and year of the expected birth of the child. The vital statistics unit of the department of health and welfare shall maintain a central registry for this purpose that shall be subject to disclosure according to chapter 3, title 9, Idaho Code. The department shall record the date and time the notice of the filing of proceedings is filed with the department. The notice shall be deemed to be duly filed with the department as of the date and time recorded on the notice by the department.

(3) If the unmarried biological father does not know the county in which the birth mother resides, he may initiate his action in any county, subject to a change in venue.

(4) Except as provided in section 16-1504(5), Idaho Code, any father of a child born out of wedlock who fails to file and register his notice of the commencement of paternity proceedings pursuant to section 7-1111, Idaho Code, prior to the date of the filing of any proceeding to terminate the parental rights of the birth mother; the filing of any proceeding to adopt the child; or the execution of a consent to terminate the birth mother's parental rights under the provisions of section 16-2005(4), Idaho Code, whichever occurs first, is deemed to have waived and surrendered any right in relation to the child and of any notice to proceedings for adoption of the child or for termination of parental rights of the birth mother. His consent to the adoption of the child shall not be required and he shall be barred from thereafter bringing or maintaining any action to establish his paternity of the child. Failure of such filing or registration shall constitute an abandonment of said child and shall constitute an irrevocable implied consent in any adoption or termination proceeding.

(5) The filing and registration of an unrevoked notice of the commencement of paternity proceedings by a putative father shall constitute prima facie evidence of the fact of his paternity in any contested proceeding under chapter 11, title 7, Idaho Code. The filing of a notice of the commencement of paternity proceedings shall not be a bar to an action for termination of his parental rights under chapter 20, title 16, Idaho Code.

(6) An unmarried biological father of a child born out of wedlock who has filed and registered a notice of the filing of paternity proceedings may at any time revoke notice of intent to claim paternity previously filed. Upon receipt of written revocation, the effect shall be as if no notice of the filing of paternity proceedings had been filed or registered.

(7) In any adoption proceeding pertaining to a child born out of wedlock, if there is no showing that the putative father has consented to the adoption, a certificate shall be obtained from the vital statistics unit of the department of health and welfare, signed by the state registrar of vital statistics, which certificate shall state that a diligent search has been made of the registry of notices from putative fathers, and that no filing has been found pertaining to the father of the child in question, or if a filing is found, stating the name of the putative father and the time and date of filing. That certificate shall be filed with the court prior to entry of a final decree of adoption.

(8) Identities of putative fathers can only be released pursuant to procedures contained in chapter 3, title 9, Idaho Code.

(9) To cover the cost of implementing and maintaining said central registry, the vital statistics unit of the department of health and welfare shall charge a filing fee of ten dollars (\$10.00) at the time the putative father files his notice of his commencement of proceedings. The department shall also charge a reasonable fee to cover all costs incurred in a search

of the Idaho putative father registry and for furnishing a certificate in accordance with the provisions of this section and section 16-1504, Idaho Code. It is the intent of the legislature that the fee shall cover all direct and indirect costs incurred pursuant to this section and section 16-1504, Idaho Code. The department shall annually review the fees and expenses incurred pursuant to administering the provisions of this section and section 16-1504, Idaho Code.

(10) Consistent with its authority denoted in the vital statistics act, section 39-242(c), Idaho Code, the board of health and welfare shall adopt, amend and repeal rules for the purpose of carrying out the provisions of this section.

(11) The department shall produce and distribute, within the limits of continuing annual appropriations duly made available to the department by the legislature for such purposes, a pamphlet or publication informing the public about the Idaho putative father registry, printed in English and Spanish. The pamphlet shall indicate the procedures to be followed in order to receive notice of any proceeding for adoption of a child an unmarried biological father claims to have fathered and of any proceeding for termination of his parental rights, voluntary acknowledgment of paternity, the consequences of acknowledgment of paternity, the consequences of failure to acknowledge paternity and the address of the Idaho putative father registry. Within the limits of continuing annual appropriations duly made available to the department by the legislature for such purposes, such pamphlets or publications shall be made available for distribution to the public at all offices of the department of health and welfare. Upon request the department shall also provide such pamphlets or publications to hospitals, libraries, medical clinics, schools, colleges, universities, providers of child-related services and children's agencies licensed in the state of Idaho or advertising services in the state of Idaho.

(12) Within the limits of continuing annual appropriations duly made available to the department by the legislature for such purposes, each county clerk, branch office of the department of motor vehicles, all offices of the department of health and welfare, hospitals and local health districts shall post in a conspicuous place a notice that informs the public about the purpose and operation of the Idaho putative father registry. The notice must include information regarding the following:

- (a) Where to obtain a registration form;
- (b) Where to register;
- (c) The procedures to follow in order to file proceedings to establish paternity of a child born out of wedlock;
- (d) The consequences of a voluntary acknowledgment of paternity; and
- (e) The consequences of failure to acknowledge paternity.

(13) The department shall host on the department's web page a public service announcement (PSA) informing the public about the Idaho putative father registry, printed in English and Spanish. The PSA shall indicate the procedures to be followed in order to receive notice of any proceeding for adoption of a child an unmarried biological father claims to have fathered and of any proceeding for termination of his parental rights, voluntary acknowledgment of paternity, the consequences of acknowledgment of paternity, the consequences of failure to acknowledge paternity and the address of the Idaho putative father registry.

(14) Failure to post a proper notice under the provisions of this section does not relieve a putative father of the obligation to file notice of the filing of proceedings to establish his paternity pursuant to this section or to commence proceedings to establish paternity pursuant to section 7-1111, Idaho Code, prior to the filing of any proceeding to terminate parental rights of the birth mother.

(15) A person who knowingly or intentionally falsely files or registers as a putative father is guilty of a misdemeanor.

Approved March 19, 2014

CHAPTER 141
(S.B. No. 1310)

AN ACT

RELATING TO PROPERTY; AMENDING CHAPTER 1, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-115, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE THAT A HOMEOWNER'S ASSOCIATION MAY NOT IMPOSE FINES ON MEMBERS UNLESS ITS AUTHORITY TO DO SO IS CLEARLY SET FORTH IN THE COVENANTS AND RESTRICTIONS; TO PROVIDE A PROCEDURE RELATING TO THE IMPOSITION OF FINES ON HOMEOWNER'S ASSOCIATION MEMBERS, TO PROVIDE THAT NO FINE SHALL BE IMPOSED IF A MEMBER BEGINS RESOLVING THE VIOLATION PRIOR TO THE MEETING SO LONG AS THE MEMBER CONTINUES TO ADDRESS THE VIOLATION IN GOOD FAITH UNTIL FULLY RESOLVED, TO PROVIDE A RESTRICTION RELATING TO THE USE OF FINES AND TO PROVIDE THAT SPECIFIED LAW SHALL NOT AFFECT CERTAIN AUTHORITY THAT MAY ALLOW FOR THE RECOVERY OF ATTORNEY'S FEES.

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

SECTION 1. That Chapter 1, Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 55-115, Idaho Code, and to read as follows:

55-115. HOMEOWNER'S ASSOCIATION -- PROHIBITED CONDUCT. (1) As used in this section:

(a) "Homeowner's association" shall have the same meaning as in section 45-810(6), Idaho Code.

(b) "Board" means the entity that has the duty of governing the association that may be referred to as the board of directors, executive board or any such similar name.

(c) "Member" or "membership" means any person or entity owning or possessing an interest in residential real property or lot within the physical boundaries of an established homeowner's association.

(2) No fine may be imposed for a violation of the covenants and restrictions pursuant to the rules or regulations of the homeowner's association unless the authority to impose a fine is clearly set forth in the covenants and restrictions and:

(a) A majority vote by the board shall be required prior to imposing any fine on a member for a violation of any covenants and restrictions pursuant to the rules and regulations of the homeowner's association.

(b) Written notice by personal service or certified mail of the meeting during which such vote is to be taken shall be made to the member at least thirty (30) days prior to the meeting.

(c) In the event the member begins resolving the violation prior to the meeting, no fine shall be imposed so long as the member continues to address the violation in good faith until fully resolved.

(d) No portion of any fine may be used to increase the remuneration of any board member or agent of the board.

(e) No part of this section shall affect any statute, rule, covenant, bylaw, provision or clause that may allow for the recovery of attorney's fees.

Approved March 19, 2014

CHAPTER 142
(S.B. No. 1317)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 3, CHAPTER 272, LAWS OF 2013, TO REVISE A SUNSET DATE.

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

SECTION 1. That Section 3, Chapter 272, Laws of 2013, be, and the same is hereby amended to read as follows:

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval. The provisions of this act shall be null, void and of no force and effect on and after July 1, 2014⁵.

Approved March 19, 2014

CHAPTER 143
(S.B. No. 1318)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 3, CHAPTER 329, LAWS OF 2013, TO REVISE A SUNSET PROVISION.

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

SECTION 1. That Section 3, Chapter 329, Laws of 2013, be, and the same is hereby amended to read as follows:

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval, and retroactively to November 21, 2012. The provisions of Section 1 of this act shall be null, void and of no force and effect on and after July 1, 2014⁵. The provisions of Section 2 of this act shall be in full force and effect on and after July 1, 2014⁵.

Approved March 19, 2014

CHAPTER 144
(S.B. No. 1319)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-515, IDAHO CODE, TO REMOVE REFERENCES TO THE 2013-2014 SCHOOL YEAR, TO REVISE PROVISIONS RELATING TO CERTAIN SALARY-BASED APPORTIONMENT ESTIMATES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 7, CHAPTER 353, LAWS OF 2013, TO REVISE A SUNSET DATE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 33-515, Idaho Code, be, and the same is hereby amended to read as follows:

33-515. ISSUANCE OF RENEWABLE CONTRACTS. (1) During the third full year of continuous employment by the same school district, including any specially chartered district, each certificated employee named in subsection (16) of section 33-1001, Idaho Code, and each school nurse and school librarian shall be evaluated for a renewable contract and shall, upon having been offered a contract for the next ensuing year, and upon signing and timely returning a contract for a fourth full year, be placed on a renewable contract status with said school district entitling such individual to the right to automatic renewal of contract, subject to the provisions included in this chapter.

(2) At least once annually, the performance of each renewable contract certificated employee, school nurse, or school librarian shall be evaluated according to criteria and procedures established by the board of trustees in accordance with general guidelines approved by the state board of education. Such an evaluation shall be completed no later than May 1 of each year. The evaluation shall include a minimum of two (2) documented observations, one (1) of which shall be completed prior to January 1 of each year.

(3) Any contract automatically renewed under the provisions of this section may be renewed for a shorter term, longer term or the same length of term as stated in the current contract and at a greater, lesser or equal salary as that stated in the current contract. Absent the board's application of a formal reduction in force, renewals of standard teacher contracts may be for a shorter term, longer term or the same length of term as stated in the current standard teacher contract and at a greater, lesser or equal salary, and shall be uniformly applied to all employees based upon the district's adopted salary schedule to the extent allowable in section 33-1004E, Idaho Code.

(a) Contracts issued pursuant to this section shall be issued on or before the first day of July each year.

(b) At the discretion of the board, the district may issue letters of intent for employment for the next ensuing school year to renewable contract status employees during May of each school year. Such letter of intent shall not state a specific duration of the contract or salary/benefits term for the next ensuing school year.

(c) Unless otherwise negotiated and ratified by both parties pursuant to sections 33-1271, et seq., Idaho Code, ~~for the 2013-2014 school year~~, standard teacher renewals for terms shorter in length than that stated in the current standard contract of renewable certificated employees, should be considered and implemented only after the district has determined that the salary-based apportionment reimbursement that it estimates it will receive for the ~~2013-2014~~ ensuing school year is less than the sum the district would otherwise be paying for salaries for certificated professional employees.

(4) Nothing in this section shall prevent the board of trustees from offering a renewed contract increasing the salary of any certificated person, or from reassigning an administrative employee to a nonadministrative position with appropriate reduction of salary from the preexisting salary level. In the event the board of trustees reassigns an administrative employee to a nonadministrative position, the board shall give written notice to the employee which contains a statement of the reasons for the reassignment. The employee, upon written request to the board, shall be entitled to an informal review of that decision. The process and procedure for the informal review shall be determined by the local board of trustees.

(5) Before a board of trustees can determine not to renew for reasons of an unsatisfactory report of the performance of any certificated person whose contract would otherwise be automatically renewed, such person shall be entitled to a reasonable period of probation. This period of probation shall be preceded by a written notice from the board of trustees with reasons for such probationary period and with provisions for adequate supervision and

evaluation of the person's performance during the probationary period. Such period of probation shall not affect the person's renewable contract status. Consideration of probationary status for certificated personnel is consideration of the status of an employee within the meaning of section 67-2345, Idaho Code, and may be held in executive session. If the consideration results in probationary status, the individual on probation shall not be named in the minutes of the meeting. A record of the decision shall be placed in the teacher's personnel file.

(6) If the board of trustees takes action to immediately discharge or discharge upon termination of the current contract a certificated person whose contract would otherwise be automatically renewed, the action of the board shall be consistent with the procedures specified in section 33-513(5), Idaho Code, and furthermore, the board shall notify the employee in writing whether there is just and reasonable cause not to renew the contract or to reduce the salary of the affected employee, and if so, what reasons it relied upon in that determination.

(7) If the board of trustees takes action after the declaration of a financial emergency pursuant to section 33-522, Idaho Code, and such action is directed at more than one (1) certificated employee, and if mutually agreed to by both parties, a single informal review shall be conducted. Without mutual consent of both parties, the board of trustees shall use the following procedure to conduct a single due process hearing within sixty-seven (67) days of the declaration of financial emergency pursuant to section 33-522(2), Idaho Code, or on or before June 22, whichever shall occur first:

(a) The superintendent or any other duly authorized administrative officer of the school district may recommend the change in the length of the term stated in the current contract or reduce the salary of any certificated employee by filing with the board of trustees written notice specifying the purported reasons for such changes.

(b) Upon receipt of such notice, the board of trustees, acting through its duly authorized administrative official, shall give the affected employees written notice of the reductions and the recommendation of the change in the length of the term stated in the current contract or the reduction of salary, along with written notice of a hearing before the board of trustees prior to any determination by the board of trustees.

(c) The hearing shall be scheduled to take place not less than six (6) days nor more than fourteen (14) days after receipt of the notice by the employees. The date provided for the hearing may be changed by mutual consent.

(d) The hearing shall be open to the public.

(e) All testimony at the hearing shall be given under oath or affirmation. Any member of the board, or the clerk of the board of trustees, may administer oaths to witnesses or affirmations by witnesses.

(f) The employees may be represented by legal counsel and/or by a representative of a local or state education association.

(g) The chairman of the board of trustees or the designee of the chairman shall conduct the hearing.

(h) The board of trustees shall cause an electronic record of the hearing to be made or shall employ a competent reporter to take stenographic or stenotype notes of all the testimony at the hearing. A transcript of the hearing shall be provided at cost by the board of trustees upon request of the employee.

(i) At the hearing, the superintendent or other duly authorized administrative officer shall present evidence to substantiate the reduction contained in such notice.

(j) The employees may produce evidence to refute the reduction. Any witness presented by the superintendent or by the employees shall be

subject to cross-examination. The board of trustees may also examine witnesses and be represented by counsel.

(k) The affected employees may file written briefs and arguments with the board of trustees within three (3) days after the close of the hearing or such other time as may be agreed upon by the affected employees and the board of trustees.

(l) Within seven (7) days following the close of the hearing, the board of trustees shall determine and, acting through its duly authorized administrative official, shall notify the employees in writing whether the evidence presented at the hearing established the need for the action taken.

The due process hearing pursuant to this subsection shall not be required if the board of trustees and the local education association reach an agreement on issues agreed upon pursuant to section 33-522(3), Idaho Code.

(8) If the board of trustees, for reasons other than unsatisfactory service, for the ensuing contract year, determines to change the length of the term stated in the current contract, reduce the salary or not renew the contract of a certificated person whose contract would otherwise be automatically renewed, nothing herein shall require a probationary period.

(9) If the board of trustees, for reasons other than unsatisfactory service, for the ensuing contract year, determines to change the length of the term stated in the current contract or reduce the salary of a certificated person whose contract would otherwise be automatically renewed, nothing herein shall require any individualized due process proceeding. In such circumstance, the board shall hold a single informal review for all impacted employees. The process and procedure for the single informal review shall be determined by the local board of trustees.

SECTION 2. That Section 7, Chapter 353, Laws of 2013, be, and the same is hereby amended to read as follows:

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2 and 6 of this act shall be in full force and effect on and after passage and approval. Sections 3, 4 and 5 of this act shall be in full force and effect on and after July 1, 2014⁵.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval, and retroactively to April 16, 2013.

Approved March 19, 2014

CHAPTER 145
(S.B. No. 1326)

AN ACT

RELATING TO EDUCATION; AMENDING CHAPTER 1, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-133, IDAHO CODE, TO PROVIDE DEFINITIONS, TO ESTABLISH PROVISIONS RELATING TO REPORTING CERTAIN STATISTICAL INFORMATION AND TO ESTABLISH PROVISIONS RELATING TO A STATEWIDE DATABASE.

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

SECTION 1. That Chapter 1, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-133, Idaho Code, and to read as follows:

33-133. TEACHERS -- CLASSROOM SIZE -- REPORTING. (1) Definitions. The following terms have the following meanings:

- (a) "Teacher" means an individual holding a teaching certificate issued by the state department of education.
- (b) "Classroom" means a place where groups of students meet for instruction in a particular subject, including students enrolled in virtual schools or charter schools.
- (c) "Classroom instructor" means an individual holding a teaching certificate issued by the state department of education and who has been assigned to teach students one (1) or more subjects.
- (d) "Class size" means the number of students who regularly appear in an instructor's classroom or on a class roster and for whom the classroom instructor is primarily responsible and accountable.
- (e) "Pupil-teacher ratio" means the total number of students in a school building divided by the total number of teachers working in that school building. For the purposes of this act, the term "school building" also includes virtual charter schools.
- (f) "Total caseload" means the total number of students serviced by classroom instructors in a secondary school setting.

(2) Reporting.

- (a) The state department of education shall gather statistical information using a unified approach that will demonstrate:
 - (i) The total number of teachers actively employed within an Idaho school district listed by individual school building;
 - (ii) The pupil-teacher ratio for every Idaho school district listed by individual school building;
 - (iii) The number of elementary classroom teachers in every Idaho school building listed by grade and subject;
 - (iv) The number of secondary classroom teachers in every Idaho school building listed by grade and subject;
 - (v) The class size in every Idaho elementary school building listed by teacher; and
 - (vi) The class size, by each section and by total caseload, in every secondary school building listed by teacher.
- (b) The report under this subsection shall be prepared and published once annually by January 1 and shall be made available on a public website maintained by the state department of education.
- (c) For purposes of this subsection, each teacher will be identified by a unique numeric identifier and not by individual name.

(3) Statewide database. The state department of education shall maintain a statewide database of the statistical information collected and published.

Approved March 19, 2014

CHAPTER 146
(S.B. No. 1327)

AN ACT

RELATING TO LIFE-THREATENING ALLERGIES IN SCHOOLS; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-520A, IDAHO CODE, TO DEFINE TERMS, TO AUTHORIZE SCHOOLS TO VOLUNTARILY MAINTAIN A SUPPLY OF EPINEPHRINE AUTO-INJECTORS, TO PROVIDE FOR THE USE OF EPINEPHRINE AUTO-INJECTORS, TO AUTHORIZE SCHOOLS TO ENTER INTO ARRANGEMENTS WITH MANUFACTURERS OF EPINEPHRINE AUTO-INJECTORS, TO PROVIDE GUIDELINES FOR PARTICIPATION AND TO PROVIDE FOR PROTECTION FROM LIABILITY FOR GOOD SAMARITANS; AMENDING SECTION 54-1705, IDAHO

CODE, TO ADD A DEFINITION; AMENDING SECTION 54-1732, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE LABELING OF A LEGEND DRUG AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1733, IDAHO CODE, TO PROVIDE FOR EPINEPHRINE AUTO-INJECTORS WHEN A PRESCRIBER DOES NOT HAVE A PRESCRIBER-PATIENT RELATIONSHIP; AMENDING SECTION 54-1734, IDAHO CODE, TO PROVIDE AN EXCEPTION FOR SCHOOLS POSSESSING STOCK SUPPLIES OF EPINEPHRINE AUTO-INJECTORS; AMENDING SECTIONS 37-3201 AND 54-1761, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AND AMENDING SECTIONS 54-4702 AND 54-5110, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Chapter 5, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-520A, Idaho Code, and to read as follows:

33-520A. LIFE-THREATENING ALLERGIES IN SCHOOLS -- GUIDELINES, STOCK SUPPLY OF EPINEPHRINE AUTO-INJECTORS AND EMERGENCY ADMINISTRATION. (1) As used in this section, the following definitions shall apply:

(a) "Administer" means the direct application of an epinephrine auto-injector to the body of an individual.

(b) "Designated school personnel" means an employee, agent or volunteer of a school designated by the governing authority of a school who has completed the training to provide or administer an epinephrine auto-injector to a student.

(c) "Epinephrine auto-injector" means a device that automatically injects a premeasured dose of epinephrine.

(d) "Provide" means the supply of one (1) or more epinephrine auto-injectors to an individual.

(e) "School" means any public or nonpublic school.

(f) "Self-administration" means a student or other person's discretionary use of an epinephrine auto-injector, whether provided by the student or by a school nurse or designated school personnel pursuant to the provisions of this section.

(2) Any physician, advanced practice registered nurse licensed to prescribe or physician assistant licensed to prescribe pursuant to title 54, Idaho Code, may prescribe epinephrine auto-injectors in the name of a school to be maintained for use in accordance with subsection (3) of this section. Licensed pharmacists and physicians may dispense epinephrine auto-injectors pursuant to a prescription issued in accordance with this subsection. A school may maintain a stock supply of epinephrine auto-injectors.

(3) The governing authority of a school may authorize school nurses and designated school personnel to do the following:

(a) Provide an epinephrine auto-injector to a student to self-administer the epinephrine auto-injector in accordance with a prescription specific to the student on file with the school nurse;

(b) Administer an epinephrine auto-injector to a student in accordance with a prescription specific to the student on file with the school nurse; and

(c) Administer an epinephrine auto-injector to any student or other individual on school premises that the school nurse or designated school personnel in good faith believes is experiencing anaphylaxis regardless of whether the student or other individual has a prescription for an epinephrine auto-injector.

(4) A school may enter into arrangements with manufacturers of epinephrine auto-injectors or third-party suppliers of epinephrine auto-injectors to obtain epinephrine auto-injectors at fair market price, reduced price or free.

(5) The governing authority of a school that participates in supplying and administering epinephrine auto-injectors pursuant to the provisions of this section shall do the following:

(a) Require each school that maintains a stock supply and administers epinephrine auto-injectors to submit a report of each incident at the school or related school event involving a severe allergic reaction or the administration of an epinephrine auto-injector to the governing authority of the school or its designee; and

(b) Establish detailed standards for training programs that must be completed by designated school personnel in order to provide or administer an epinephrine auto-injector in accordance with this section. Such training may be conducted online and, at a minimum, shall cover:

(i) Techniques on how to recognize symptoms of severe allergic reactions, including anaphylaxis;

(ii) Standards and procedures for the storage, administration and disposal of an epinephrine auto-injector; and

(iii) Emergency follow-up procedures.

(6) There shall be no civil liability for any damages for a physician, advanced practice registered nurse, physician's assistant or pharmacist providing a prescription or standing protocol for school epinephrine auto-injectors consistent with the standard of care for the provider. Further, there shall be no civil liability for damages for a school or its employees or agents for any injuries that result from the administration or self-administration of an epinephrine auto-injector regardless of whether authorization for use was given by the student's parents, guardian or medical provider provided the actions taken in administering or providing the injector were reasonable under the circumstances. The liability protections in this section do not apply to acts or omissions constituting gross negligence, those that are reckless or that constitute willful and wanton behavior. The liability protections in this section are in addition to any provided under section 5-330, Idaho Code.

SECTION 2. That Section 54-1705, Idaho Code, be, and the same is hereby amended to read as follows:

54-1705. DEFINITIONS. In this chapter:

(1) "Board of pharmacy" or "board" means the Idaho state board of pharmacy.

(2) "Central drug outlet" means a resident or nonresident pharmacy, drug outlet, or business entity employing or contracting pharmacists to perform centralized pharmacy services.

(3) "Central pharmacist" means a pharmacist performing centralized pharmacy services.

(4) "Centralized pharmacy services" means the processing by a central drug outlet or central pharmacist of a request from another pharmacy to fill, refill, or dispense a prescription drug order, perform processing functions or provide cognitive or pharmaceutical care services. Each function may be performed by the same or different persons and at the same or different locations.

(5) "Compounding" means the act of incorporating two (2) or more substances to create a finished drug product.

(3)-(56) "Counseling" or "counsel" means the effective communication by the pharmacist of information as set out in this chapter, to the patient or caregiver, in order to improve therapeutic outcomes by maximizing proper use of prescription drugs and devices. Specific areas of counseling shall include, but are not limited to:

(a) Name and strength and description of the drug;

(b) Route of administration, dosage, dosage form, continuity of therapy and refill information;

(c) Special directions and precautions for preparation, administration, storage and use by the patient as deemed necessary by the pharmacist;

(d) Side effects or adverse effects and interactions and therapeutic contraindications that may be encountered, including their avoidance, which may interfere with the proper use of the drug or device as was intended by the prescriber, and the action required if they occur;

(e) Techniques for self-monitoring drug therapy; and

(f) Action to be taken in the event of a missed dose.

(67) "Deliver" or "delivery" means the actual, constructive or attempted transfer of a drug or device from one (1) person to another, whether or not for a consideration.

(78) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar related article including any component part or accessory which is:

(a) Recognized in the official United States Pharmacopoeia or official National Formulary, other drug compendia or any supplement to them;

(b) Intended for use in the diagnosis of disease or other conditions, or the cure, mitigation, treatment or prevention of disease in man or other animal;

(c) Intended to affect the structure or any function of the body of man or other animal, and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animal, and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

(89) "Dispense" or "dispensing" means the preparation and delivery of a drug pursuant to a lawful prescription drug order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription.

(910) "Distribute" means the delivery of a drug other than by administering or dispensing.

(101) "Drug" means:

(a) Articles recognized as drugs in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, other drug compendia or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animal;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c) of this subsection.

(112) "Drug order" means a prescription drug order issued in the unique form and manner permitted for a patient or resident of an institutional facility or as permitted for other purposes as defined in rules. Unless specifically differentiated, state law applicable to a prescription drug order is also applicable to a drug order.

(123) "Drug outlets" means all resident or nonresident pharmacies, business entities and other facilities where employees or personnel are engaged in the practice of pharmacy, in the provision of pharmaceutical care, or in the dispensing, delivering, distributing or manufacturing of drugs or devices in or into Idaho.

(134) "Extern" means a bona fide student enrolled in an approved school or college of pharmacy who has not received his first professional degree in pharmacy.

(145) "Externship" means a structured practical experience program in pharmacy administered by a school or college of pharmacy.

(156) "Institutional facility" means a facility for which its primary purpose is to provide a physical environment for patients to obtain health

care services and in which patients spend a majority of their time, as may be further defined by board rules.

(167) "Intern" means any person who has completed a course of study at an approved school or college of pharmacy, received the first professional degree in pharmacy and is registered with the board as a pharmacist intern. Interns must register with the board prior to commencement of an internship program.

(178) "Internship" means a postgraduate practical experience program under the supervision of a preceptor.

(189) "Investigational or new drug" means any drug which is limited by state or federal law to use under professional supervision of a practitioner authorized by law to prescribe or administer such drug.

(1920) "Labeling" means the process of preparing and affixing of a label to any drug container, exclusive however, of the labeling by a manufacturer, packer or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label shall include all information required by federal and state law.

(201) "Limited service outlet" means a resident or nonresident facility or business entity that is subject to registration by the board, pursuant to section 54-1729, Idaho Code, and has employees or personnel engaged in the practice of pharmacy, in the provision of pharmaceutical care, or in the dispensing, delivering, distributing or manufacturing of drugs or devices but is not a retail pharmacy, institutional facility, manufacturer, wholesaler, veterinary drug outlet, nonresident central drug outlet or mail service pharmacy.

(212) "Mail service pharmacy" means a nonresident pharmacy that ships, mails or delivers by any lawful means a dispensed legend drug to residents in this state pursuant to a legally issued prescription drug order and ensures the provision of corresponding related pharmaceutical care services required by law.

(223) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a device or a drug, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a drug by an individual for his own use or the preparation, compounding, packaging or labeling of a drug:

(a) By a pharmacist or practitioner as an incident to his administering, dispensing or, as authorized by board rule, distributing of a drug in the course of his professional practice; or

(b) By a practitioner or by his authorization under his supervision for the purpose of or as an incident to research, teaching or chemical analysis and not for sale.

(234) "Manufacturer" means a person who by compounding, cultivating, harvesting, mixing or other process, produces or prepares legend drugs, and includes persons who prepare such drugs in dosage forms by mixing, compounding, encapsulating, entableting, or other process, or who packages or repackages such drugs, but does not include pharmacists or practitioners in the practice of their profession.

(245) "Nonprescription drugs" means medicines or drugs which may be sold without a prescription drug order and which are prepackaged for use by the consumer and labeled in accordance with state and federal law.

(256) "Nonresident" means a person or business entity located in the District of Columbia or a state other than Idaho that practices pharmacy including, but not limited to, pharmaceutical care services into Idaho.

(267) "Person" means an individual, corporation, partnership, association or any other legal entity.

(278) "Pharmaceutical care" means drug therapy and other pharmaceutical patient care services intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process as defined in the rules of the board.

(289) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy or a pharmacist registered by this state who is located in another state or the District of Columbia and is engaged in the practice of pharmacy into Idaho, unless exempted.

(2930) "Pharmacist-in-charge" (PIC) means a pharmacist whose qualifications, responsibilities and reporting requirements are defined in rule.

(301) "Pharmacy" means any facility, department or other place where prescription drug orders are filled or compounded and prescriptions are sold, dispensed, offered or displayed for sale, which has, as its principal purpose, the dispensing of drug and health supplies intended for the general health, welfare and safety of the public.

(312) "Practitioner" means a person licensed in this state and permitted by such license to dispense, conduct research with respect to or administer drugs in the course of professional practice or research in this state.

(323) "Precursor" means a substance, other than a legend drug which is an immediate chemical intermediate that can be processed or synthesized into a legend drug, and is used or produced primarily for use in the manufacture of a legend drug by persons other than persons licensed to manufacture such legend drugs by the Idaho board of pharmacy, registered by the state board of health and welfare, or licensed to practice pharmacy by the Idaho board of pharmacy.

(334) "Preceptor" means a pharmacist licensed and in good standing who supervises the internship or externship training of a registered student pharmacist. The preceptor shall be actively engaged in the practice of pharmacy on a full-time employment basis.

(35) "Prescriber" means an individual currently licensed, registered or otherwise authorized to prescribe and administer drugs in the course of professional practice.

(326) "Prescription drug or legend drug" means a drug which, under federal law is required, prior to being dispensed or delivered, to be labeled with one (1) of the following statements:

- (a) "Caution: Federal law prohibits dispensing without a prescription"; or
- (b) "Rx Only"; or
- (c) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian";

or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription drug order only or is restricted to use by practitioners only.

(357) "Prescription drug order" means a valid order of a practitioner for a drug or device for an ultimate user of the drug or device.

(368) "Prospective drug review" includes, but is not limited to, the following activities:

- (a) Evaluation of the prescription drug order for:
 - (i) Known allergies;
 - (ii) Rational therapy contraindications;
 - (iii) Reasonable dose and route of administration; and
 - (iv) Reasonable directions for use.
- (b) Evaluation of the prescription drug order for duplication of therapy.
- (c) Evaluation of the prescription drug order for interactions:
 - (i) Drug-drug;
 - (ii) Drug-food; and
 - (iii) Drug-disease.

- (d) Evaluation of the prescription drug order for proper utilization:
- (i) Over or under utilization; and
 - (ii) Abuse/misuse.

(379) "Record" means all papers, letters, memoranda, notes, prescriptions, drug orders, invoices, statements, patient medication charts or files, computerized records or other written indicia, documents or objects which are used in any way in connection with the purchase, sale or handling of any drug or device.

(3840) "Sale" means every sale and includes:

- (a) Manufacturing, processing, transporting, handling, packaging or any other production, preparation or repackaging;
- (b) Exposure, offer, or any other proffer;
- (c) Holding, storing or any other possession;
- (d) Dispensing, giving, delivering or any other supplying; and
- (e) Applying, administering or any other usage.

(3941) "Warehouseman" means a person who stores legend drugs for others and who has no control over the disposition of such drugs except for the purpose of such storage.

(402) "Wholesaler" means a person engaged in the business of distributing legend drugs that he himself has not produced or prepared, to persons included in any of the classes named in subsection (2) (a) through (f) of section 54-1734, Idaho Code.

SECTION 3. That Section 54-1732, Idaho Code, be, and the same is hereby amended to read as follows:

54-1732. VIOLATIONS AND PENALTIES. (1) No drug outlet designated in section 54-1729, Idaho Code, shall be operated until a certificate of registration has been issued to said facility by the board. Upon the finding of a violation of this subsection, the board may impose one (1) or more of the penalties enumerated in section 54-1728, Idaho Code.

(2) Reinstatement of a certificate that has been suspended, revoked or restricted by the board may be granted in accordance with the procedures specified in section 54-1728(6), Idaho Code.

(3) The following acts, or the failure to act, and the causing of any such act or failure are unlawful:

(a) The sale, delivery or administration of any prescription drug or legend drug unless:

(i) Such legend drug is dispensed or delivered by a pharmacist upon an original prescription, drug order or prescription drug order by a practitioner in good faith in the course of his practice. Any person violating the provisions of this subparagraph shall be guilty of a felony, and on conviction thereof shall be imprisoned in the state penitentiary for a term not to exceed three (3) years, or punished by a fine of not more than five thousand dollars (\$5,000) or by both such fine and imprisonment.

(ii) ~~There is affixed, i~~In the case of a legend drug dispensed or delivered by a pharmacist or prescriber, ~~to the immediate container in which such drug is delivered there is~~ a label bearing the name, address, and phone number of the establishment from which such drug was dispensed; the date on which the prescription for such drug was filled; the number of such prescription as filed in the prescription files of the pharmacist who filled the prescription; the name of the practitioner who prescribed such drug; the name of the patient, and if such drugs were prescribed for an animal, a statement of the species of the animal; and the directions for the use of the drug as contained in the prescription; or in the case of a legend drug delivered or administered by a practitioner in the course of his practice, the immediate container in

~~which such drug is delivered bears a label on which appears the directions for use of such drug; the name and address of such practitioner; the name of the patient; and if such drug is prescribed for an animal, a statement of the species of the animal affixed to the immediate container in which such drug is dispensed.~~ Any person violating this subparagraph shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars (\$500). Nothing in this subparagraph prohibits a practitioner from delivering professional samples of legend drugs in their original containers in the course of his practice when oral directions for use are given at the time of such delivery.

(b) The refilling of any prescription or drug order for a legend drug except as designated on the prescription or drug order, or by the authorization of the practitioner. Any person guilty of violating this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(c) The possession or use of a legend drug or a precursor by any person unless such person obtains such drug on the prescription or drug order of a practitioner. Any person guilty of violating this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(d) The failure to keep records as required by the board. Any person guilty of violating this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(e) The refusal to make available and to accord full opportunity to check any record, as required by the board. Any person guilty of violating this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.

(f) It is unlawful to:

(i) Obtain or attempt to obtain a legend drug or procure or attempt to procure the administration of a legend drug by fraud, deceit, misrepresentation or subterfuge; by the forgery or alteration of a prescription, drug order, or of any written order; by the concealment of a material fact; or by the use of a false name or the giving of a false address.

(ii) Communicate information to a physician in an effort unlawfully to procure a legend drug, or unlawfully to procure the administration of any such drug. Any such communication shall not be deemed a privileged communication.

(iii) Intentionally make a false statement in any prescription, drug order, order, report or record required by this chapter.

(iv) For the purpose of obtaining a legend drug to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian or other person.

(v) Make or utter any false or forged prescription or false drug order or forged written order.

(vi) Affix any false or forged label to a package or receptacle containing legend drugs. This subparagraph does not apply to law enforcement agencies or their representatives while engaged in enforcing state and federal drug laws.

(vii) Wholesale or retail any prescription or legend drug to any person in this state not entitled by law to deliver such drug to another.

Every violation of subsection (3) (f) (i) through (vi) of this section shall be a misdemeanor and any person convicted thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or fined not more than one thousand dollars (\$1,000), or punished by both such fine and imprisonment. Any person violating subsection (3) (f) (vii) of this section is guilty of a felony and on conviction thereof shall be imprisoned in the state penitentiary for a term not to exceed three (3) years, or punished by a fine of not more than five thousand dollars (\$5,000), or by both such fine and imprisonment.

(4) Provided however, that a veterinarian may dispense or deliver a legend drug prescribed for an animal upon the prescription, drug order, or prescription drug order of another veterinarian. The label shall ~~comply with the provisions of~~ be affixed pursuant to subsection (3) (a) (ii) of this section, and penalties for violations of the provisions of this subsection shall be as provided in this section for like violations by a pharmacist.

(5) The ultimate user of a legend drug who has lawfully obtained such legend drug may deliver, without being registered, the legend drug to another person for the purpose of disposal of the legend drug if the person receiving the legend drug for purposes of disposal is authorized under a state or federal law or regulation to engage in such activity.

~~Every violation of subsection (3) (f) (i) through (vi) of this section shall be a misdemeanor and any person convicted thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or fined not more than one thousand dollars (\$1,000), or punished by both such fine and imprisonment. Any person violating subsection (3) (f) (vii) of this section is guilty of a felony, and on conviction thereof shall be imprisoned in the state penitentiary for a term not to exceed three (3) years, or punished by a fine of not more than five thousand dollars (\$5,000), or by both such fine and imprisonment.~~

SECTION 4. That Section 54-1733, Idaho Code, be, and the same is hereby amended to read as follows:

54-1733. VALIDITY OF PRESCRIPTION DRUG ORDERS. (1) Except as provided in subsection (4) of this section, a prescription drug order for a legend drug is not valid unless it is issued for a legitimate medical purpose arising from a prescriber-patient relationship which includes a documented patient evaluation adequate to establish diagnoses and identify underlying conditions and/or contraindications to the treatment. Treatment, including issuing a prescription drug order, based solely on an online questionnaire or consultation outside of an ongoing clinical relationship does not constitute a legitimate medical purpose. A prescription drug order may be issued either:

- (a) By a practitioner acting in the usual course of his profession; or
- (b) By a physician, dentist, veterinarian, scientific investigator or other person, other than a pharmacist, who is licensed in a jurisdiction other than the state of Idaho and is permitted by such license to dispense, conduct research with respect to or administer the prescribed legend drugs in the course of his professional practice or research in such jurisdiction, so long as the individual is acting within the jurisdiction, scope and authority of his license when issuing the prescription drug order.
- (c) The prescription drug order may be signed and sent electronically pursuant to chapter 50, title 28, Idaho Code.

(d) Transmission of prescription drug order. In addition to delivery of the original signed written prescription drug order to a licensed pharmacy:

(i) A prescription drug order that has been signed by the practitioner may be received by a licensed pharmacy for dispensing purposes through a facsimile transmission from the prescribing practitioner or the practitioner's agent, or from an institutional facility for a patient or resident in such facility;

(ii) A prescription drug order may also be received by a licensed pharmacist verbally from the practitioner, the practitioner's agent or from a licensed practical nurse or licensed professional nurse in an institutional facility for a patient or resident in such facility;

(iii) A prescription drug order received verbally from the practitioner by a licensed practical nurse or licensed professional nurse in a licensed institutional facility for a patient or resident in such facility may also be sent by facsimile transmission from the institutional facility to a licensed pharmacy for dispensing purposes provided the transmitted document includes the name of the prescriber issuing the prescription drug order, the name of the nurse who transcribed the order and the name of the person who sent the facsimile.

(e) In the event that there are no refills remaining on an existing prescription drug order, and the pharmacist requests a new prescription drug order from the practitioner, the practitioner's agent, after obtaining practitioner authorization, may sign and return the request via facsimile so long as:

(i) The request is generated from the pharmacy;

(ii) The request is for medication that the patient is currently taking;

(iii) There are no changes to the type of drug, its strength or directions for the continuation of therapy;

(iv) The practitioner's agent's transmission is received via facsimile from the practitioner's office; and

(v) The request, which is subsequently transmitted back to the requesting pharmacy by the practitioner's agent, contains all components of a valid prescription drug order.

(2) It is unlawful for a practitioner to knowingly issue an invalid prescription drug order for a legend drug.

(3) It is unlawful for a pharmacist or veterinarian to knowingly fill an invalid prescription drug order for a legend drug.

(4) A prescriber who is otherwise authorized to perform any of the activities listed in this subsection may prescribe or perform any of the following activities for a patient with whom the prescriber does not have a prescriber-patient relationship under the following circumstances:

(a) Writing initial admission orders for a newly hospitalized patient;

(b) Writing a prescription for a patient of another prescriber for whom the prescriber is taking call;

(c) Writing a prescription for a patient examined by a physician assistant, advanced practice registered nurse or other licensed practitioner with whom the prescriber has a supervisory or collaborative relationship;

(d) Writing a prescription for medication on a short-term basis for a new patient prior to the patient's first appointment;

(e) In emergency situations where life or health of the patient is in imminent danger;

(f) In emergencies that constitute an immediate threat to the public health including, but not limited to, empiric treatment or prophylaxis to prevent or control an infectious disease outbreak;

(g) Epinephrine auto-injectors in the name of a school pursuant to section 33-520A, Idaho Code;

(h) If a prescriber makes a diagnosis of a sexually transmitted disease in a patient, the prescriber may prescribe or dispense antibiotics to the infected patient's named sexual partner or partners for treatment of the sexually transmitted disease as recommended by the most current centers for disease control and prevention (CDC) guidelines.

(5) Prescribing drugs to individuals without a prescriber-patient relationship and not in accordance with this section shall be unprofessional conduct and the prescriber shall be subject to discipline according to the provisions of the Idaho Code chapter pursuant to which the prescriber is licensed, certified or registered.

SECTION 5. That Section 54-1734, Idaho Code, be, and the same is hereby amended to read as follows:

54-1734. EXCEPTIONS. The provisions of this chapter pertaining to the sale of prescription drugs are not applicable:

(1) To the sale of legend drugs to persons included in any of the classes named in paragraphs (a) through (fg) in subsection (2) of this section, or to the agents or employees of such persons, for use in the usual and lawful course of their business or practice or in the performance of their lawful official duties, as the case may be; or

(2) To the possession of legend drugs by such persons or their agents or employees for such use:

(a) Pharmacists;

(b) Practitioners;

(c) Persons who procure legend drugs for handling by or under the supervision of pharmacists or practitioners employed by them, or for the purpose of lawful research, teaching, or testing, and not for resale;

(d) Hospitals and other institutions which procure legend drugs for lawful administration by practitioners;

(e) Manufacturers and wholesalers;

(f) Carriers and warehousemen; and

(g) Schools possessing stock supplies of epinephrine auto-injectors pursuant to section 33-520A, Idaho Code.

(3) To the sale by a business not licensed as a pharmacy of legend drugs (excluding controlled substances) designated for veterinary use which require a prescription, provided that:

(a) The business is registered and licensed with the board of pharmacy.

(b) The sale is authorized by a written or oral order from a veterinarian licensed in this or another state.

1. Prior to dispensing an order from an out-of-state veterinarian, the seller must confirm and document that the veterinarian is properly licensed in his state.

2. Oral orders must be confirmed by the veterinarian in writing no later than seven (7) days after the seller receives the order.

(c) The written order or confirmation of an oral order must be retained on the premises of the business for at least two (2) years after the original date of the order.

SECTION 6. That Section 37-3201, Idaho Code, be, and the same is hereby amended to read as follows:

37-3201. DEFINITIONS. As used in this chapter:

(1) "Code imprint" means a series of letters or numbers assigned by the manufacturer or distributor to a specific drug, or marks or monograms unique to the manufacturer or distributor of the drug, or both;

(2) "Distributor" means a person who distributes for resale a drug in solid dosage form under his own label even though he is not the actual manufacturer of the drug;

(3) "Solid dosage form" means capsules or tablets intended for oral use;

(4) "Legend drug" means any drug defined by section 54-1705(326), Idaho Code.

SECTION 7. That Section 54-1761, Idaho Code, be, and the same is hereby amended to read as follows:

54-1761. DEFINITIONS. As used in sections 54-1760 through 54-1765, Idaho Code:

(1) "Legend drug" has the same meaning as provided in section 54-1705(326), Idaho Code.

(2) "Medically indigent" means any person who is in need of a legend drug and who is not eligible for medicaid or medicare, who cannot afford private prescription drug insurance or who does not have income and other resources available sufficient to pay for the legend drug.

(3) "Qualifying charitable clinic or center" means a community health center as defined in section 39-3203, Idaho Code, and means a free medical clinic as defined in section 39-7702, Idaho Code, acting in consultation with a pharmacist licensed in the state of Idaho.

SECTION 8. That Section 54-4702, Idaho Code, be, and the same is hereby amended to read as follows:

54-4702. DEFINITIONS. As used in this chapter:

(1) "Acupuncture" means that theory of health care developed from traditional and modern Oriental medical philosophies that employs diagnosis and treatment of conditions of the human body based upon stimulation of specific acupuncture points on meridians of the human body for the promotion, maintenance, and restoration of health and for the prevention of disease. Therapies within the scope of acupuncture include manual, mechanical, thermal, electrical and electromagnetic treatment of such specific indicated points. Adjunctive therapies included in, but not exclusive to, acupuncture include herbal and nutritional treatments, therapeutic exercise and other therapies based on traditional and modern Oriental medical theory.

(2) "Board" means the Idaho state board of acupuncture.

(3) "NCCAOM" means "National Certification Commission for Acupuncture and Oriental Medicine."

(4) "Practice of acupuncture" means the insertion of acupuncture needles and use of similar devices and therapies, including application of moxibustion, to specific indicated points on the skin of the human body as indicated pursuant to traditional and modern theories of Oriental medicine. The "practice of acupuncture" does not include:

(a) surgery; or

(b) prescribing, dispensing or administering any prescription drug or legend drug as defined in section 54-1705(326), Idaho Code.

SECTION 9. That Section 54-5110, Idaho Code, be, and the same is hereby amended to read as follows:

54-5110. NATUROPATHIC MEDICAL FORMULARY COUNCIL ESTABLISHED. There is hereby established a naturopathic medical formulary council, which is separate and distinct from the board, to be composed of seven (7) members. Two (2) members shall be naturopathic physicians licensed under this chapter, and appointed by the board of naturopathic medical examiners. Three (3) members shall be pharmacists licensed under chapter 17, title

54, Idaho Code, appointed by the board of naturopathic medical examiners from a list of nominees provided by the Idaho state board of pharmacy. Two (2) members shall be physicians licensed under chapter 18, title 54, Idaho Code, appointed by the board of naturopathic medical examiners from a list of nominees provided by the Idaho state board of medicine. The initial council shall be appointed as follows: One (1) naturopathic physician shall be appointed for a one (1) year term; one (1) physician licensed under chapter 18, title 54, Idaho Code, and one (1) pharmacist shall be appointed for a two (2) year term; and two (2) pharmacists, one (1) naturopathic physician and one (1) physician licensed under chapter 18, title 54, Idaho Code, shall be appointed for a three (3) year term. Thereafter, the term of office shall be three (3) years. A quorum shall consist of five (5) members and shall be required for any vote to be taken. It shall be the duty of the naturopathic medical formulary council to establish a formulary for use by naturopathic physicians, and immediately upon adoption or revision of the formulary, the council shall transmit the approved formulary to the board, which shall adopt the formulary by temporary rule. The formulary will be reviewed annually by the council, or at any time at the request of the board. The formulary list may not go beyond the scope of prescription medicines and medical devices covered by approved naturopathic medical education and training and existing naturopathic medical formularies, or board-approved continuing education. The naturopathic medical formulary shall not include medicines and devices that are inconsistent with the training provided by approved naturopathic medical colleges. Nothing herein shall allow a naturopathic physician to dispense, administer or prescribe any prescription drug as defined in section 54-1705(326), Idaho Code, or medical device unless such prescription drug or medical device is specifically included in the naturopathic medical formulary.

Approved March 19, 2014

CHAPTER 147
(S.B. No. 1329, As Amended)

AN ACT

RELATING TO TIME SENSITIVE EMERGENCIES; AMENDING CHAPTER 10, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-1024, IDAHO CODE, TO STATE LEGISLATIVE INTENT; AMENDING CHAPTER 10, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-1025, IDAHO CODE, TO DEFINE TERMS; AMENDING CHAPTER 10, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-1026, IDAHO CODE, TO CREATE THE IDAHO TIME SENSITIVE EMERGENCY SYSTEM; AMENDING CHAPTER 10, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-1027, IDAHO CODE, TO CREATE THE IDAHO TIME SENSITIVE EMERGENCY SYSTEM COUNCIL AND TO PROVIDE FOR MEMBERSHIP OF THE COUNCIL; AMENDING CHAPTER 10, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-1028, IDAHO CODE, TO PROVIDE FOR DUTIES OF THE COUNCIL AND TO PROVIDE RULEMAKING AUTHORITY; AMENDING CHAPTER 10, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-1029, IDAHO CODE, TO PROVIDE FOR THE DESIGNATION OF TRAUMA, STROKE AND HEART ATTACK CENTERS AND TO PROVIDE CRITERIA FOR DESIGNATION; AMENDING CHAPTER 10, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-1030, IDAHO CODE, TO CREATE REGIONAL TIME SENSITIVE EMERGENCY COMMITTEES AND TO PROVIDE FOR MEMBERSHIP AND DUTIES OF THE COMMITTEES; AMENDING THE HEADING FOR CHAPTER 20, TITLE 57, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 57-2001, IDAHO CODE, TO REVISE TERMINOLOGY AND TO REVISE PROVISIONS RELATING TO PURPOSES OF THE TIME SENSITIVE EMERGENCY REGISTRY; AMENDING SECTION 57-2002, IDAHO CODE, TO ADD AND REVISE DEFINITIONS AND TO MAKE TECHNICAL

CORRECTIONS; AMENDING SECTION 57-2003, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 57-2004, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 57-2005, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 57-2006, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 57-2007, IDAHO CODE, TO REVISE TERMINOLOGY.

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

SECTION 1. That Chapter 10, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-1024, Idaho Code, and to read as follows:

56-1024. IDAHO TIME SENSITIVE EMERGENCY SYSTEM OF CARE -- STATEMENT OF INTENT. Time sensitive emergencies, specifically blunt trauma injuries, strokes and heart attacks, were three (3) of the top five (5) causes of deaths in Idaho in 2011. Numerous studies throughout the United States have demonstrated that organized systems of care improve patient outcomes, thus reducing the frequency of preventable death and improving the functional status of the patient. The institute of medicine's report "Hospital-Based Emergency Care: At the Breaking Point" recommended improving the care of critical illness through regionalization by transporting critically ill patients to designated specialized care centers when appropriate. Early treatment and transfer when necessary will save the lives of Idahoans stricken with these emergency conditions. Trauma systems of care are well understood as they have existed in many other states for decades. It is the intent of this legislation to create an integrated and responsive system of care for Idaho citizens. The trauma component will serve as the initial framework in a deliberate, incremental implementation approach for a comprehensive system of care for time sensitive emergencies in Idaho. The time sensitive emergency system in Idaho is intended to be voluntary and inclusive. The system will be designed such that all facilities, and in particular critical access hospitals, have the opportunity to participate. No facility shall be excluded from receiving medically appropriate patients based solely on the facility's decision of not seeking designation.

SECTION 2. That Chapter 10, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-1025, Idaho Code, and to read as follows:

56-1025. DEFINITIONS. As used in sections 56-1024 through 56-1030, Idaho Code:

(1) "EMS agency" means any organization licensed by the EMS bureau that operates an air medical service, ambulance service or nontransport service.

(2) "EMS bureau" means the bureau of emergency medical services of the department of health and welfare.

(3) "Council" means the Idaho time sensitive emergency system council.

(4) "TSE" means time sensitive emergency, specifically trauma, stroke and heart attack.

SECTION 3. That Chapter 10, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-1026, Idaho Code, and to read as follows:

56-1026. IDAHO TIME SENSITIVE EMERGENCY SYSTEM -- CREATION. There is hereby created a voluntary time sensitive emergency system within the department of health and welfare.

SECTION 4. That Chapter 10, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-1027, Idaho Code, and to read as follows:

56-1027. IDAHO TIME SENSITIVE EMERGENCY SYSTEM COUNCIL -- CREATION -- COMPOSITION. (1) There is hereby created the Idaho time sensitive emergency system council hereinafter known as the "council." Council members shall be appointed by the governor with the approval of the board of health and welfare. Council members shall be selected to assure equitable geographic, rural and clinical specialty representation.

(2) The membership of the council shall include the following:

(a) One (1) representative from a facility that either holds or is seeking designation as an Idaho trauma center. The representative shall be the medical director, the coordinator or the program manager responsible for the respective facility's trauma program;

(b) One (1) representative from a facility that either holds or is seeking designation as an Idaho stroke facility. The representative shall be the medical director, the coordinator or the program manager responsible for the respective facility's stroke program;

(c) One (1) representative from a facility that either holds or is seeking designation as an Idaho heart attack center. The representative shall be the medical director, the coordinator or the program manager responsible for the respective facility's heart attack program;

(d) One (1) representative from an EMS agency licensed by the department that serves a primarily urban response area;

(e) One (1) representative from an EMS agency licensed by the department that serves a primarily rural response area;

(f) One (1) representative from an air medical EMS agency licensed by the department;

(g) One (1) administrator of an Idaho hospital that either holds or is seeking Idaho trauma, stroke or heart attack designation;

(h) One (1) chief executive officer or administrator of an Idaho critical access hospital that either holds or is seeking Idaho trauma, stroke or heart attack designation;

(i) One (1) licensed health care provider who routinely works in the emergency department of a hospital that serves a primarily urban area that either holds or is seeking trauma, stroke or heart attack designation;

(j) One (1) licensed health care provider who routinely works in the emergency department of a hospital that serves a primarily rural area that either holds or is seeking trauma, stroke or heart attack designation; and

(k) One (1) Idaho citizen with an interest in furthering the quality of trauma, stroke and heart attack care in Idaho.

(3) The chair of each regional TSE committee shall be added as a voting member of the council when the regional TSE committee is implemented and the chair is selected.

(4) Members of the council shall serve four (4) year terms with half of the members initially appointed, as determined by lot, serving two (2) year terms. If a vacancy occurs, the governor shall appoint a replacement to fill the unexpired term. Members may be reappointed and shall serve at the pleasure of the governor.

(5) The governor shall appoint a chair who shall serve a term of two (2) years. The council may elect other officers as it may deem necessary and appropriate. The council shall meet at least semiannually and at the call of the chair.

SECTION 5. That Chapter 10, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-1028, Idaho Code, and to read as follows:

56-1028. IDAHO TIME SENSITIVE EMERGENCY SYSTEM COUNCIL -- DUTIES -- RULEMAKING. The duties of the council shall be as follows:

- (1) Develop, implement and monitor a voluntary statewide system that includes trauma, stroke and heart attack facilities;
- (2) Provide oversight of the system, assuring adherence to standards established by the council;
- (3) Establish substate system regions that provide more effective access to the system. In the designation of these regions, specific consideration shall be given to geography and patient referral patterns for the facilities and agencies included therein;
- (4) Establish a regional TSE committee in each substate region;
- (5) Develop the standards and criteria that each participating facility that voluntarily applies is required to meet concerning personnel, equipment, resources, data collection and organizational capabilities to obtain or maintain designation;
- (6) Develop procedures for and the duration of the designation of a trauma, stroke or heart attack facility, including application procedures, verification procedures, investigation of complaints pertaining to designation and emergency suspension or revocation of designation;
- (7) Develop operational procedures for the regional TSE committees;
- (8) Facilitate the implementation of nationally accepted standards throughout the voluntary system;
- (9) Set procedures for the acquisition of data needed to successfully manage the system;
- (10) Promulgate rules to fulfill the purpose of this act; and
- (11) Collaborate and cooperate with the EMS bureau, the EMS physician commission, local governments, local EMS agencies and associations to address recruitment and retention concerns of local EMS providers.

SECTION 6. That Chapter 10, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-1029, Idaho Code, and to read as follows:

56-1029. IDAHO TRAUMA, STROKE AND HEART ATTACK CENTERS -- DESIGNATION. (1) The council shall designate a hospital as a trauma, stroke or heart attack center when such hospital, upon proper application and verification, has been found by the council to meet the applicable level of trauma, stroke or heart attack center criteria as established by the council.

(2) In developing trauma, stroke and heart attack center designation criteria, the council shall use, as is practicable, appropriate peer-reviewed or evidence-based research including, but not limited to, the most recent guidelines of the American college of surgeons committee on trauma, American college of cardiology and American heart association for heart attack centers, or the joint commission's primary stroke center certification program criteria for stroke centers, or primary and comprehensive stroke center recommendations as published by the American stroke association or other nationally recognized authoritative standards.

(3) Participation criteria shall be published in rules promulgated by the council.

(4) The council shall conduct a periodic verification review of every trauma, heart attack and stroke facility. Verification reviews shall be coordinated for the different types of centers to the extent practicable with hospital resources. No person who has a substantial conflict of interest in the operation of any trauma, stroke and heart attack center under review shall participate in the verification review of the facility.

(5) The council shall coordinate an on-site review as necessary to assure that a hospital meets the criteria for the desired designation. The council may waive an on-site review when a hospital has been verified by a nationally recognized accrediting body to meet or exceed standards established by the council.

(6) The council may deny, place on probation, suspend or revoke any designation when it has reasonable cause to believe that there has been misrepresentation or falsification of information or a substantial failure to comply with the criteria for designation promulgated by the council. If the council has reasonable cause to believe that a hospital is not in compliance with such provisions, it may require the facility to submit additional documentation or undergo additional site reviews to verify compliance.

(7) No hospital may hold itself out to the public as an Idaho designated trauma center, Idaho designated stroke facility or Idaho designated heart attack facility unless it is designated as such by the council.

(8) A hospital aggrieved because of the council's decision shall be entitled to appeal to the council in the manner prescribed by the council and shall be afforded reasonable notice and opportunity for a fair hearing.

(9) Actions of the council relating to adoption of rules, notice, hearings, appeals from decisions of the department or the director, and review shall be governed by the provisions of chapter 52, title 67, Idaho Code, the administrative procedure act.

SECTION 7. That Chapter 10, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-1030, Idaho Code, and to read as follows:

56-1030. REGIONAL TIME SENSITIVE EMERGENCY COMMITTEES -- MEMBERSHIP -- DUTIES. (1) Pursuant to section 56-1028(4), Idaho Code, each substate region designated by the council shall have a time sensitive emergency committee.

(2) Membership of each regional TSE committee shall be based on the needs of the region and can be modified as the regional TSE committee determines, but each regional committee shall be initially comprised as follows:

(a) Each facility that is designated or is seeking designation by the council as a trauma center, stroke facility or heart attack facility may appoint one (1) representative for each of the designations that the facility holds or is seeking to hold to the regional committee for the region in which the facility is located;

(b) Each air medical EMS agency that provides patient transport within the region may appoint one (1) representative;

(c) Each hospital that either holds or is seeking Idaho trauma, stroke or heart attack designation may appoint the hospital administrator;

(d) Each EMS agency with a response area in the region may appoint one (1) representative; and

(e) The regional committee shall include a pediatrician or an expert in children's trauma.

(3) Members of a regional committee shall elect a chair to serve a term of two (2) years.

(4) The duties of each regional committee shall be as follows:

(a) Implement care guidelines, policies, procedures and protocols for the regional TSE system;

(b) Conduct regional quality improvement, including receipt of reports prepared by the council containing trauma, stroke and heart attack data and making recommendations to facilities within the region based upon those reports;

(c) Advise the council concerning the statewide system;

(d) Establish trauma, stroke and heart attack education and prevention programs;

- (e) Provide advice concerning trauma, stroke and heart attack care to health care facilities and other providers of health care;
- (f) Perform other duties required by Idaho code and council rules; and
- (g) Conduct other activities needed to ensure optimal delivery of trauma, stroke and heart attack care services within the region.

SECTION 8. That the Heading for Chapter 20, Title 57, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 20
TRAUMA TIME SENSITIVE EMERGENCY (TSE) REGISTRY

SECTION 9. That Section 57-2001, Idaho Code, be, and the same is hereby amended to read as follows:

57-2001. PURPOSE OF THE REGISTRY. (1) The specific issues to be identified and evaluated through the ~~trauma~~ TSE registry are:

- (a) ~~Injury~~ Trauma, stroke and heart attack surveillance;
- (b) Geographic patterns of trauma incidence;
- (c) ~~Types of injuries~~ TSEs treated in hospitals in Idaho;
- (d) Areas or regions of the state where improvements in the emergency medical system may be needed;
- (e) Public education and prevention needs and efforts; and
- (f) Other factors to consider in recommending, designing or implementing a statewide ~~trauma~~ TSE system.

(2) The data collected by the ~~trauma~~ TSE registry shall be of such a nature as to allow the department to identify at least the following:

- (a) Lack of aAccess to care and improvement of the availability and delivery of prehospital, hospital and post-acute TSE care;
- (b) Performance of the out-of-hospital and hospital emergency medical systems;
- (c) Costs of ~~trauma~~ TSE care; and
- (d) Outcomes of persons who are victims of ~~trauma~~ TSEs.

(3) The department shall evaluate the data collected, as well as data collected from other relevant sources, and, beginning one (1) year after the effective date of this chapter, shall prepare an annual report. The data shall be used to regularly produce and disseminate aggregated and de-identified analytical reports and for recommending benchmark quality measures and outcomes and needed educational resources to the TSE system of care state board.

SECTION 10. That Section 57-2002, Idaho Code, be, and the same is hereby amended to read as follows:

57-2002. TRAUMA TSE REGISTRY -- DEFINITIONS. When used in this chapter:

(1) "Confidential information" means information which may identify a patient, health care facility or health care practitioner.

(2) "Contractor" means that individual, partnership, corporation or other entity performing ~~trauma~~ TSE registry services under a contractual agreement with the department.

(3) "De-identified information" means records and information contained in the ~~trauma~~ TSE registry, including compilations and analyses thereof, ~~which does that do~~ not contain information which might identify a patient, health care facility or health care practitioner.

(4) "Department" means the bureau of emergency medical services and preparedness of the Idaho department of health and welfare.

(5) "Heart attack" means STEMI, which is a common name for ST-elevation myocardial infarction, a more precise definition for a type of heart attack that is caused by a prolonged period of blocked blood supply that affects a

large area of the heart and has a substantial risk of death and disability calling for a quick response.

(6) "Stroke" means an interruption of blood flow to the brain causing paralysis, slurred speech and/or altered brain function usually caused by a blockage in a blood vessel that carries blood to the brain (ischemic stroke) or by a blood vessel bursting (hemorrhagic).

(7) "Trauma" is the result of an act or event that damages, harms or hurts a human being resulting in intentional or unintentional damage to the body resulting from acute exposure to mechanical, thermal, electrical, or chemical energy or from the absence of such essentials as heat or oxygen.

(8) "TSE" means a time sensitive emergency, specifically trauma, heart attack or stroke.

(69) "Trauma TSE registry" means the population-based data system that provides ongoing and systematic collection, analysis, interpretation, and dissemination of information related to injury trauma, stroke and heart attack for system improvement, prevention and research activities. Elements in the registry shall describe the nature and scope of the injury problem, illness or health condition, identify the incidence and prevalence of traumatic injury, illness or health condition, severity of injury, performance of out-of-hospital and hospital emergency medical systems, patient outcome, and the impact of trauma, stroke and heart attack on the health care system.

(710) "Trauma TSE system" means the organized approach to treating injured patients that establishes and promotes standards for patient transportation, equipment, and information analysis for effective and coordinated trauma TSE care. Trauma TSE systems represent a continuum of care that is fully integrated into the emergency medical services system and is a coordinated effort between out-of-hospital and hospital providers with the close cooperation of medical specialists in each phase of care. The focus is on prevention, coordination of acute care, and aggressive rehabilitation. Ideally, systems are designed to be inclusive of all injured patients with a TSE requiring acute care facilities, striving to meet the needs of the patient, regardless of the severity of injury, geographic location or population density. Ultimately, a trauma TSE system seeks to prevent injuries from happening and the reduction of death and disability when it does happen.

SECTION 11. That Section 57-2003, Idaho Code, be, and the same is hereby amended to read as follows:

57-2003. ESTABLISHMENT OF TRAUMA TSE REGISTRY. The department, or an authorized contractor of the department, shall:

(1) Establish a ~~trauma~~ TSE registry to collect and analyze information on the incidence, severity, causes and outcomes of ~~trauma TSEs~~, and other such data necessary to evaluate trauma, strokes and heart attacks and the health system's response to it;

(2) Establish the data elements and data dictionary, including child specific data elements that hospitals must report, and the time frame and format for reporting by adoption of rules in the manner provided in chapter 52, title 67, Idaho Code;

(3) Support, where necessary, data collection and abstraction by providing:

(a) A data collection system and technical assistance to each hospital; and

(b) Funding or, at the discretion of the department, personnel for collection and abstraction for each hospital.

SECTION 12. That Section 57-2004, Idaho Code, be, and the same is hereby amended to read as follows:

57-2004. PARTICIPATION IN PROGRAM. (1) Each licensed hospital shall report each case of ~~trauma~~ TSE which meets the inclusion criteria to the department or the authorized contractor of the department within one hundred eighty (180) days of treatment.

(2) Each report of ~~trauma~~ TSE shall include information as defined by the department.

(3) The department or authorized contractor of the department shall have physical access to all records which would identify reportable cases and/or establish characteristics, treatment or medical status of reportable cases in the event that there has been a failure to report as delineated in subsections (1) and (2) of this section.

(4) Nothing in this chapter shall prevent the department or authorized contractor from identifying and reporting cases using data linkages with death records, other ~~trauma~~ registries, and other potential sources.

SECTION 13. That Section 57-2005, Idaho Code, be, and the same is hereby amended to read as follows:

57-2005. CREATION OF ~~TRAUMA~~ TSE REGISTRY FUND -- PURPOSE. There is hereby created and established in the state treasury a fund to be known as the "Trauma Time Sensitive Emergencies (TSE) Registry Fund" to which shall be deposited the revenues derived from grants, appropriations or other sources of funds. All moneys now or hereafter in the ~~trauma~~ TSE registry fund are hereby dedicated for the purpose of contracting for and obtaining the services of a continuous registry of all ~~trauma~~ time sensitive emergency incident patients in the state of Idaho and maintaining a cooperative exchange of information with other states providing a similar ~~trauma~~ TSE incident registry. The department of health and welfare, bureau of emergency medical services and preparedness, is charged with the administration of this fund for the purposes specified herein. All claims against the fund shall be examined, audited and allowed in the manner now or hereafter provided by law for claims against the state of Idaho.

SECTION 14. That Section 57-2006, Idaho Code, be, and the same is hereby amended to read as follows:

57-2006. CONFIDENTIALITY. (1) Information and records contained in the ~~trauma~~ TSE registry shall be kept confidential and may be released only as provided by this chapter and the rules of the department.

(2) The department and an authorized contractor may enter into agreements to exchange confidential information with other ~~trauma~~ TSE registries in order to obtain complete reports of Idaho residents treated in other states and to provide information to other states regarding their residents treated in Idaho. Agreements sharing information from the ~~trauma~~ TSE registry shall include a provision requiring the receiving agency to keep such information confidential.

(3) The department and an authorized contractor may, in their discretion, publish or furnish to health researchers and the public, de-identified information including compilations and analyses thereof.

(4) The department and an authorized contractor may furnish confidential information to other ~~trauma~~ TSE registries, federal ~~trauma~~ TSE programs, or health researchers in order to perform and collaborate with research studies. Persons and entities receiving confidential information for research purposes must comply with rules of the department relating to the confidentiality of ~~trauma~~ TSE registry records and information.

(5) The department and an authorized contractor may furnish confidential information relating to a specific licensed hospital, including compilations and analyses of such confidential information, to the specific licensed hospital to which it relates.

(6) ~~Trauma~~ TSE registry records and information shall not be available for purposes of litigation except by order of the court. Any such order shall contain such protective provisions as are reasonable and necessary to prevent the public or further disclosure of the records and information and shall contain a provision requiring the destruction of the records and information when no longer needed for the litigation.

SECTION 15. That Section 57-2007, Idaho Code, be, and the same is hereby amended to read as follows:

57-2007. LIABILITY. (1) No action for damages arising from the disclosure of confidential information may be maintained against any reporting entities or employees of such entities that participate in good faith in the reporting of ~~trauma~~ TSE registry data in accordance with this chapter.

(2) No license of a health care facility or health care practitioner may be denied, suspended or revoked for the good faith disclosure of confidential information in accordance with this chapter.

(3) The immunity granted in subsections (1) and (2) of this section shall not be construed to apply to the unauthorized disclosure of confidential information when such disclosure is due to gross negligence or willful misconduct of the reporting entities.

Approved March 19, 2014

CHAPTER 148
(S.B. No. 1332)

AN ACT

RELATING TO FIREARMS; PROVIDING A SHORT TITLE; PROVIDING LEGISLATIVE INTENT; AMENDING CHAPTER 33, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-3315B, IDAHO CODE, TO PROVIDE CERTAIN PROHIBITED ACTS REGARDING FIREARMS BY PUBLIC EMPLOYEES AND OFFICERS OF GOVERNMENTAL ENTITIES, TO PROVIDE PENALTIES, TO ESTABLISH THAT CERTAIN LAWS ARE UNENFORCEABLE IN IDAHO BY STATE AND LOCAL GOVERNMENT OFFICIALS, AGENTS OR EMPLOYEES AND TO DEFINE A TERM; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. SHORT TITLE. This act shall be known and may be cited as the "Idaho Federal Firearm, Magazine and Register Ban Enforcement Act."

SECTION 2. LEGISLATIVE INTENT. It is the intent of the Legislature in enacting this act to protect Idaho law enforcement officers from being directed, through federal executive orders, agency orders, statutes, laws, rules, or regulations enacted or promulgated on or after the effective date of this act, to violate their oath of office and Idaho citizens' rights under Section 11, Article I, of the Constitution of the State of Idaho. This Idaho constitutional provision disallows confiscation of firearms except those actually used in the commission of a felony, and disallows other restrictions on a citizen's lawful right to own firearms and ammunition. This act provides that no Idaho law enforcement official shall knowingly and willingly order an action that is contrary to the provisions of Section 11, Article I, of the Constitution of the State of Idaho. The Legislature does not intend to affect an Idaho law enforcement officer who assists federal agents on drug or gang enforcement activities. The Legislature intends to create a penalty for an official, agent or employee of the State of Idaho or a political subdivision thereof that orders an unlawful confiscation without

penalizing officers that follow orders. Idaho law enforcement officers are partners with Idaho citizens in protecting the rights as outlined in both the United States Constitution and the Constitution of the State of Idaho.

SECTION 3. That Chapter 33, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-3315B, Idaho Code, and to read as follows:

18-3315B. PROHIBITION OF REGULATION OF CERTAIN FIREARMS. (1) Other than compliance with an order of the court, any official, agent or employee of the state of Idaho or a political subdivision thereof who knowingly and willfully orders an official, agent or employee of the state of Idaho or a political subdivision of the state to enforce any executive order, agency order, law, rule or regulation of the United States government as provided in subsection (2) of this section upon a personal firearm, a firearm accessory or ammunition shall, on a first violation, be liable for a civil penalty not to exceed one thousand dollars (\$1,000) which shall be paid into the general fund of the state, and on a second or subsequent violation shall be guilty of a misdemeanor. If a public officer or person commits a violation of section 18-315 or section 18-703, Idaho Code, the public officer or person shall be punished as provided in those sections. Nothing in this section shall be construed to affect the law of search and seizure as set forth in section 17, article I of the constitution of the state of Idaho or as set forth in the fourth, fifth and fourteenth amendments to the United States constitution. Notwithstanding anything to the contrary contained elsewhere in this act, no private cause of action exists under this section.

(2) No federal executive order, agency order, law, statute, rule or regulation issued, enacted or promulgated on or after the effective date of this act, shall be knowingly and willfully ordered to be enforced by any official, agent or employee of the state or a political subdivision of the state if contrary to the provisions of section 11, article I, of the constitution of the state of Idaho.

(3) "Enforcement" shall not be construed to include the performance of any act solely for the purpose of facilitating the transfer of firearms under federal law. Any order of enforcement not excluded by the provisions of this subsection that occurs on and after the effective date of this act shall be and is a breach of the oath of office of the official, agent or employee of the state or a political subdivision of the state.

SECTION 4. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 19, 2014

CHAPTER 149
(S.B. No. 1333)

AN ACT

RELATING TO PUBLIC WORKS; AMENDING SECTION 44-1001, IDAHO CODE, TO PROVIDE THAT IN WORK INVOLVING THE EXPENDITURE OF FEDERAL AID FUNDS, SPECIFIED LAW SHALL NOT BE ENFORCED IN SUCH A MANNER AS TO CONFLICT WITH OR BE CONTRARY TO THE FEDERAL STATUTES PRESCRIBING A LABOR PREFERENCE TO HONORABLY DISCHARGED MEMBERS OF THE UNITED STATES ARMED FORCES, INCLUDING AIRMEN.

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

SECTION 1. That Section 44-1001, Idaho Code, be, and the same is hereby amended to read as follows:

44-1001. EMPLOYMENT OF RESIDENTS OF IDAHO -- WAGE SCALE -- FEDERAL FUNDS. In all state, county, municipal, and school construction, repair, and maintenance work under any of the laws of this state the contractor, or person in charge thereof must employ ninety-five percent (95%) bona fide Idaho residents as employees on any such contracts except for procurement authorized in section 67-2808 (2), Idaho Code, or where under such contracts fifty (50) or less persons are employed the contractor may employ ten percent (10%) nonresidents, provided however, in such a case employers must give preference to the employment of bona fide Idaho residents in the performance of such work; provided, that in work involving the expenditure of federal aid funds this act shall not be enforced in such a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to honorably discharged members of the United States armed forces, including airmen, soldiers, sailors, and marines, prohibiting as unlawful any other preference or discrimination among the citizens of the United States.

Approved March 19, 2014

CHAPTER 150
(S.B. No. 1357)

AN ACT

RELATING TO THE IDAHO CRIMINAL JUSTICE SYSTEM; AMENDING CHAPTER 25, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-2517, IDAHO CODE, TO REQUIRE THAT PRESENTENCE INVESTIGATION REPORTS INCLUDE INFORMATION RELATING TO RECIDIVISM RATES; AMENDING SECTION 19-2521, IDAHO CODE, TO REMOVE PROVISIONS RELATING TO THE COURT'S AUTHORITY TO PLACE A DEFENDANT ON PROBATION; AMENDING SECTION 19-2524, IDAHO CODE, TO PROVIDE THAT SUBSTANCE USE TREATMENT SHALL BE BASED UPON RISK ASSESSMENT WITH PRIORITY GIVEN TO CERTAIN PROBATIONERS, TO PROVIDE CERTAIN DUTIES OF THE DEPARTMENT OF HEALTH AND WELFARE RELATING TO MENTAL HEALTH EXAMINATIONS AND TREATMENT AND TO PROVIDE THAT DEFENDANTS SHALL PAY A CERTAIN FEE FOR MENTAL HEALTH EXAMINATIONS AND TREATMENTS; AMENDING SECTION 19-2601, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE SUSPENSION AND WITHHOLDING OF JUDGMENT, TO ESTABLISH PROVISIONS RELATING TO AN AGREEMENT OF SUPERVISION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 19-2606, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DUTY OF CERTAIN PERSONS TO REPORT TO THE COURT AND TO PROVIDE THAT THE COURT MAY MODIFY THE TERMS AND CONDITIONS OF A SUSPENDED SENTENCE AND MAY ORDER RETAINED JURISDICTION; AMENDING CHAPTER 2, TITLE 20, IDAHO CODE,

BY THE ADDITION OF A NEW SECTION 20-209H, IDAHO CODE, TO PROVIDE THE DUTY OF THE BOARD OF CORRECTION TO ESTABLISH INMATE ACCOUNTS AND TO PROVIDE FOR THE PAYMENT OF RESTITUTION FROM THE INMATE ACCOUNTS; AMENDING CHAPTER 2, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-210A, IDAHO CODE, TO PROVIDE THE DUTIES AND POWERS OF THE COMMISSION OF PARDONS AND PAROLE; AMENDING SECTION 20-216, IDAHO CODE, TO PROVIDE REPORTING DUTIES OF THE BOARD OF CORRECTION AND THE DEPARTMENT OF HEALTH AND WELFARE AND TO DEFINE TERMS; AMENDING SECTION 20-219, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE BOARD OF CORRECTION'S SUPERVISION DUTIES, TO PROVIDE THAT THE BOARD OF CORRECTION MAY DETERMINE THE LEVEL OF SUPERVISION OF CERTAIN PERSONS AND TO PROVIDE AN EXCEPTION, TO PROVIDE ADDITIONAL REQUIREMENTS RELATING TO SUPERVISION, TO PROVIDE THAT THE BOARD OF CORRECTION SHALL PROVIDE ALL SUPERVISING OFFICERS WITH INITIAL AND ONGOING TRAINING, TO PROVIDE THE TRAINING REQUIREMENTS AND TO REQUIRE THE BOARD OF CORRECTION TO PROMULGATE CERTAIN RULES; AMENDING SECTION 20-221, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A REQUEST TO MODIFY THE TERMS OR CONDITIONS OF PROBATION, TO PROVIDE A PROCESS FOR ANY PARTY OR THE BOARD OF CORRECTION TO REQUEST THAT THE COURT MODIFY THE TERMS AND CONDITIONS OF PROBATION AND TO PROVIDE A PROCESS FOR ANY PARTY OR THE BOARD OF CORRECTION TO REQUEST THAT THE COURT TERMINATE PROBATION; AMENDING SECTION 20-222, IDAHO CODE, TO REMOVE PROVISIONS RELATING TO AN INDETERMINATE PERIOD OF PROBATION OR SUSPENSION OF A SENTENCE, TO PROVIDE THAT THE COURT SHALL CONSIDER THE DEFENDANT'S RISKS AND NEEDS AND OPTIONS FOR TREATMENT IN THE COMMUNITY WHEN MAKING CERTAIN DETERMINATIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-223, IDAHO CODE, TO REMOVE ARCHAIC LANGUAGE, TO REVISE PROVISIONS RELATING TO PAROLE AND RULES GOVERNING PAROLE, TO REQUIRE THE DEPARTMENT OF CORRECTION TO PROMULGATE CERTAIN RULES, TO REQUIRE THE DEPARTMENT OF CORRECTION TO GIVE PRISONERS ACCESS TO PROGRAMMING, TO PROVIDE LEGISLATIVE INTENT, TO REQUIRE THE COMMISSION TO PROMULGATE CERTAIN RULES, TO PROVIDE THAT THE DEPARTMENT OF CORRECTION AND THE COMMISSION SHALL SUBMIT A CERTAIN REPORT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 20-224, IDAHO CODE, TO REQUIRE THAT THE BOARD OF CORRECTION USE A VALIDATED RISK ASSESSMENT TO DETERMINE THE RISK OF REOFFENSE AND SUITABILITY FOR RELEASE, TO DEFINE A TERM AND TO PROVIDE CERTAIN RULEMAKING RESPONSIBILITIES OF THE COMMISSION ON PARDONS AND PAROLE; AMENDING SECTION 20-227, IDAHO CODE, TO SPECIFY THAT CERTAIN PROVISIONS APPLY WHERE THE COURT HAS PROVIDED FOR THE SERVICE OF DISCRETIONARY JAIL TIME, TO REQUIRE THAT THE SUPERVISING OFFICER PROVIDE CERTAIN INFORMATION TO THE PROSECUTING ATTORNEY, TO PROVIDE THAT THE SUPERVISING OFFICER SUBMIT A STATEMENT OF PROBABLE CAUSE WITHIN A CERTAIN PERIOD OF TIME TO THE COURT, TO THE PROSECUTING ATTORNEY AND TO THE FACILITY WHERE THE PROBATIONER IS DETAINED, TO REQUIRE THE RELEASE OF A PRISONER IF A JUDICIAL DETERMINATION OF PROBABLE CAUSE IS NOT MADE WITHIN A CERTAIN PERIOD OF TIME AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-228, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO AN AGREEMENT OF SUPERVISION, TO PROVIDE A CODE REFERENCE TO A CERTAIN EXCEPTION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-229A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE RESULT OF AN ACCEPTANCE OF A CERTAIN HEARING WAIVER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 20-229B, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A PAROLE REVOCATION HEARING AND TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO COMMISSION OF PARDONS AND PAROLE RULINGS RELATING TO PAROLE HEARINGS; AMENDING SECTION 20-233, IDAHO CODE, TO PROVIDE A PROCESS FOR THE BOARD OF CORRECTION TO SUBMIT A REQUEST TO THE COMMISSION OF PARDONS AND PAROLE FOR AN ORDER OF FINAL DISCHARGE FROM THE REMAINING PERIOD OF PAROLE FOR CERTAIN PAROLEES; AMENDING SECTION 19-2513, IDAHO CODE, TO

PROVIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 2, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-250, IDAHO CODE, TO PROVIDE DEPARTMENT OF CORRECTION REPORTING REQUIREMENTS; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Chapter 25, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-2517, Idaho Code, and to read as follows:

19-2517. PRESENTENCE INVESTIGATION REPORT TO INCLUDE RECIDIVISM RATES. (1) If the court orders a presentence investigation to be conducted, the investigation report shall include current recidivism rates for:

- (a) Offenders placed on probation after an expired period of retained jurisdiction under section 19-2601 4., Idaho Code;
- (b) Offenders placed on probation under section 19-2601 2. or 3., Idaho Code; and
- (c) Offenders sentenced directly to a term of imprisonment.

(2) The reported recidivism rates shall be differentiated based on offender risk levels of low, moderate and high.

SECTION 2. That Section 19-2521, Idaho Code, be, and the same is hereby amended to read as follows:

19-2521. CRITERIA FOR PLACING DEFENDANT ON PROBATION OR IMPOSING IMPRISONMENT. (1) The court shall deal with a person who has been convicted of a crime without imposing sentence of imprisonment unless, having regard to the nature and circumstances of the crime and the history, character and condition of the defendant, it is of the opinion that imprisonment is appropriate for protection of the public because:

- (a) There is undue risk that during the period of a suspended sentence or probation the defendant will commit another crime; or
- (b) The defendant is in need of correctional treatment that can be provided most effectively by his commitment to an institution; or
- (c) A lesser sentence will depreciate the seriousness of the defendant's crime; or
- (d) Imprisonment will provide appropriate punishment and deterrent to the defendant; or
- (e) Imprisonment will provide an appropriate deterrent for other persons in the community; or
- (f) The defendant is a multiple offender or professional criminal.

(2) The following grounds, while not controlling the discretion of the court, shall be accorded weight in favor of avoiding a sentence of imprisonment:

- (a) The defendant's criminal conduct neither caused nor threatened harm;
- (b) The defendant did not contemplate that his criminal conduct would cause or threaten harm;
- (c) The defendant acted under a strong provocation;
- (d) There were substantial grounds tending to excuse or justify the defendant's criminal conduct, though failing to establish a defense;
- (e) The victim of the defendant's criminal conduct induced or facilitated the commission of the crime;
- (f) The defendant has compensated or will compensate the victim of his criminal conduct for the damage or injury that was sustained; provided, however, nothing in this section shall prevent the appropriate use of imprisonment and restitution in combination;

(g) The defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present crime;

(h) The defendant's criminal conduct was the result of circumstances unlikely to recur;

(i) The character and attitudes of the defendant indicate that the commission of another crime is unlikely.

~~(3) When a person who has been convicted of a crime is not sentenced to imprisonment, the court may place the defendant on probation if the supervision, guidance, assistance or direction is needed that the probation service has the resources to provide.~~

SECTION 3. That Section 19-2524, Idaho Code, be, and the same is hereby amended to read as follows:

19-2524. CONSIDERATION OF COMMUNITY-BASED TREATMENT TO MEET BEHAVIORAL HEALTH NEEDS IN SENTENCING AND POST-SENTENCING PROCEEDINGS. (1) After a defendant has pled guilty to or been found guilty of a felony, and at any time thereafter while the court exercises jurisdiction over the defendant, behavioral health needs determinations shall be conducted when, and as provided by, this section.

(a) As part of the presentence process, a screening to determine whether a defendant is in need of a substance use disorder assessment and/or a mental health examination shall be made in every felony case unless the court waives the requirement for a screening. The screening shall be performed within seven (7) days after the plea of guilty or finding of guilt.

(b) At any time after sentencing while the court exercises jurisdiction over the defendant, the court may order such a screening to be performed by individuals authorized or approved by the department of correction if the court determines that one is indicated. The screening shall be performed within seven (7) days after the order of the court requiring such screening.

(2) Substance use disorder provisions.

(a) Should a screening indicate the need for further assessment of a substance use disorder, the necessary assessment shall be timely performed so as to avoid any unnecessary delay in the criminal proceeding and not later than thirty-five (35) days after a plea of guilty or finding of guilt or other order of the court requiring such screening. The assessment may be performed by qualified employees of the department of correction or by private providers approved by the department of health and welfare. If the screening or assessment is not timely completed, the court may order that the screening be performed by another qualified provider.

(b) Following completion of the assessment, the results of the assessment, including a determination of whether the defendant meets diagnostic criteria for a substance use disorder and the recommended level of care, shall be submitted to the court as part of the presentence investigation report or other department of correction report to the court.

(c) Following the entry of a plea of guilty or a finding of guilt, the court may order, as a condition of the defendant's continued release on bail or on the defendant's own recognizance, that if the assessment reflects that the defendant meets diagnostic criteria for a substance use disorder, the defendant shall promptly, and prior to sentencing, begin treatment at the recommended level of care.

(d) If the court concludes at sentencing, or at any time after sentencing while the court exercises jurisdiction over the defendant, that the defendant meets diagnostic criteria for a substance use disorder, and if the court places the defendant on probation, the court may order

the defendant, as a condition of probation, to undergo treatment at the recommended level of care, subject to modification of the level of care by the court. If substance use disorder treatment is ordered, all treatment shall be performed by a qualified private provider approved by the department of health and welfare. The court may order that if the level of care placement or the treatment plan is modified in any material term, the department of correction shall notify the court stating the reason for the modifications and informing the court as to the clinical alternatives available to the defendant. The level of care for substance use treatment shall be based upon each probationer's risk assessment with priority given to probationers with high or moderate risk levels.

(e) In no event shall the persons or facility doing the substance use assessment be the person or facility that provides the substance use treatment unless this requirement is waived by the court or where the assessment and treatment are provided by or through a federally recognized Indian tribe or federal military installation, where diagnosis and treatment are appropriate and available.

(f) Defendants who have completed department of correction institutional programs may receive after care services from qualified employees of the department of correction.

(g) The expenses of all screenings and assessments for substance use disorder provided or ordered under this section shall be borne by the department of correction. The expenses for treatment provided or ordered under this section shall be borne by the department of correction unless the defendant is placed in a treatment program which is funded by an alternate source. The department of correction shall be entitled to any payment received by the defendant or to which he may be entitled from any public or private source available to the department of correction for the service provided to the defendant. The department of correction may promulgate rules for a schedule of fees to be charged to defendants for the substance use disorder assessments and treatments provided to the defendants based upon the actual costs of such services and the ability of a defendant to pay. The department of correction shall use the state approved financial eligibility form and reimbursement schedule as set forth in IDAPA 16.07.01.

(3) Mental health provisions.

(a) Should the mental health screening indicate that a serious mental illness may be present, then the department of correction shall refer the defendant to the department of health and welfare for further examination. The examination shall be timely performed so as to avoid any unnecessary delay in the criminal proceeding and not later than thirty-five (35) days after a plea of guilty or finding of guilt or other order of the court requiring such screening.

(b) The examination may be performed by qualified department of health and welfare employees or by private providers under contract with the department of health and welfare, provided that such examination shall at a minimum include an in-depth evaluation of the following:

- (i) Mental health concerns;
- (ii) Psychosocial risk factors;
- (iii) Medical, psychiatric, developmental and other relevant history;
- (iv) Functional impairments;
- (v) Mental status examination;
- (vi) Multiaxial diagnoses; and
- (vii) Any other examinations necessary to provide the court with the information set forth in paragraph (c) of this subsection.

(c) Upon completion of the mental health examination, the court shall be provided, as part of the presentence report or other department of

health and welfare report to the court, a copy of the mental health assessment along with a summary report. The summary report shall include the following:

- (i) Description and nature of the examination;
- (ii) Multiaxial diagnoses;
- (iii) Description of the defendant's diagnosis and if the defendant suffers from a serious mental illness (SMI) as that term is now defined, or is hereafter amended, in IDAPA 16.07.33.010, to also include post-traumatic stress disorder;
- (iv) An analysis of the degree of impairment due to the defendant's diagnosis;
- (v) Consideration of the risk of danger the defendant may create for the public; and
- (vi) If the defendant suffers from a serious mental illness the report shall also include a plan of treatment that addresses the following:
 1. An analysis of the relative risks and benefits of treatment versus nontreatment;
 2. Types of treatment appropriate for the defendant; and
 3. Beneficial services to be provided.

(d) If the court, after receiving a mental health examination and plan of treatment, determines that additional information is needed regarding the mental condition of the defendant or the risk of danger such condition may create for the public, the court may order additional evaluations and/or recommendations for treatment to be furnished by a psychiatrist, licensed physician or licensed psychologist.

(e) If the court concludes that the defendant suffers from a serious mental illness as defined in paragraph (c) (iii) of this subsection and that treatment is available for such serious mental illness, then the court may order, as a condition of the defendant's release on bail or on the defendant's own recognizance or as a condition of probation, that the defendant undergo treatment consistent with the plan of treatment, subject to modification of the plan of treatment by the court. If the plan of treatment is modified in any material term, the department of health and welfare shall notify the court in a timely manner stating the reasons for the modification and informing the court as to the clinical alternatives available to the defendant.

(f) If treatment is ordered, all treatment shall be performed by a provider approved by the department of health and welfare.

(g) Mental health examinations and/or treatment provided or ordered under this section shall be secured by the department of health and welfare. The department of health and welfare shall exhaust efforts to assist the defendant in gaining access to health care benefits that will cover the defendant's mental health treatment needs. To the extent that health care benefits are not available to the defendant for the treatment, the expenses for treatment shall be borne by the department of health and welfare. The expenses of all mental health examinations and/or treatment provided or ordered under this section shall be borne by the department of health and welfare. The department of health and welfare shall be entitled to any payment received by the defendant or to which he may be entitled from any public or private source available to the department of health and welfare for the service provided to the defendant. The department of health and welfare is authorized to promulgate rules for a schedule of fees to be charged to defendants for the mental health examinations and treatments provided to the defendants based upon the actual costs of such services and the ability of a defendant to pay. The department of health and welfare shall use the state approved financial eligibility form and reimbursement schedule as set forth in IDAPA 16.07.01. Defendants shall pay the fee for the

mental health examinations and treatments consistent with the rules of the department of health and welfare.

(4) Unless otherwise ordered by the court, if the defendant is in treatment for a substance use disorder or mental illness, any substance use disorder assessment required under subsection (2) of this section or mental health examination required under subsection (3) of this section need not be performed while the defendant is in such treatment. In such circumstances, the court may make such order as it finds appropriate to facilitate the completion of the sentencing process or other proceeding before the court, including providing for the assessment and treatment records to be included in the presentence investigation report or other report to the court.

(5) Any substance use disorder assessment including any recommended level of care or mental health examination including any plan of treatment shall be delivered to the court, the defendant and the prosecuting attorney prior to any sentencing hearing or probation revocation hearing.

(6) A substance use disorder assessment prepared pursuant to the provisions of this section shall satisfy the requirement of an alcohol evaluation prior to sentencing set forth in section 18-8005(11), Idaho Code, and shall also satisfy the requirement of a substance abuse evaluation prior to sentencing set forth in section 37-2738, Idaho Code.

(7) If the defendant is sentenced to the custody of the board of correction, then any substance use disorder assessment, mental health examination or plan of treatment shall be sent to the department of correction along with the presentence report.

SECTION 4. That Section 19-2601, Idaho Code, be, and the same is hereby amended to read as follows:

19-2601. COMMUTATION, SUSPENSION, WITHHOLDING OF SENTENCE -- PROBATION. Whenever any person shall have been convicted, or enter a plea of guilty, in any district court of the state of Idaho, of or to any crime against the laws of the state, except those of treason or murder, the court in its discretion, may:

1. Commute the sentence and confine the defendant in the county jail, or, if the defendant is of proper age, commit the defendant to the custody of the state department of juvenile corrections; or

2. Suspend the execution of the judgment at the time of judgment or at any time during the term of a sentence in the county jail and may place the defendant on probation under such terms and conditions as it deems necessary and expedient appropriate; or

3. Withhold judgment on such terms and for such time as it may prescribe and may place the defendant on probation under such terms and conditions as it deems necessary and appropriate; or

4. Suspend the execution of the judgment at any time during the first three hundred sixty-five (365) days of a sentence to the custody of the state board of correction. The court shall retain jurisdiction over the prisoner for a period of up to the first three hundred sixty-five (365) days or, if the prisoner is a juvenile, until the juvenile reaches twenty-one (21) years of age. During the period of retained jurisdiction, the state board of correction shall be responsible for determining the placement of the prisoner and such education, programming and treatment as it determines to be appropriate. The prisoner will remain committed to the board of correction if not affirmatively placed on probation by the court. In extraordinary circumstances, where the court concludes that it is unable to obtain and evaluate the relevant information within the period of retained jurisdiction, or where the court concludes that a hearing is required and is unable to obtain the defendant's presence for such a hearing within such period, the court may decide whether to place the defendant on probation or release jurisdiction within a reasonable time, not to exceed thirty (30) days, after

the period of retained jurisdiction has expired. Placement on probation shall be under such terms and conditions as the court deems necessary and expedient appropriate. The court in its discretion may sentence a defendant to more than one (1) period of retained jurisdiction after a defendant has been placed on probation in a case. In no case shall the board of correction or its agent, the department of correction, be required to hold a hearing of any kind with respect to a recommendation to the court for the grant or denial of probation. Probation is a matter left to the sound discretion of the court. Any recommendation made by the department to the court regarding the prisoner shall be in the nature of an addendum to the presentence report. The board of correction and its agency, the department of correction, and their employees shall not be held financially responsible for damages, injunctive or declaratory relief for any recommendation made to the district court under this section.

5. If the crime involved is a felony and if judgment is withheld as provided in subsection 3. of this section or if judgment and a sentence of custody to the state board of correction is suspended at the time of judgment in accordance with subsection 2. of this section or as provided by subsection 4. of this section and, the court shall may place the defendant upon probation, it shall be. If the court places the defendant on probation to the board of correction, to a county juvenile probation department, or any other person or persons the court, in its discretion, deems appropriate the court shall include in the terms and conditions of probation a requirement that the defendant enter into and comply with an agreement of supervision with the board of correction. The agreement of supervision shall include provisions setting forth the potential sanctions for a violation of the terms or conditions imposed and potential rewards for compliance with the terms and conditions imposed, as such sanctions and rewards are set forth in rules of the board of correction.

6. If the crime involved is a misdemeanor, indictable or otherwise, or if the court should suspend any remaining portion of a jail sentence already commuted in accordance with subsection 1. of this section, the court, if it grants probation, may place the defendant on probation. If the convicted person is a juvenile held for adult criminal proceedings, the court may order probation under the supervision of the county's juvenile probation department.

7. The period of probation ordered by a court under this section under a conviction or plea of guilty for a misdemeanor, indictable or otherwise, may be for a period of not more than two (2) years; provided that the court may extend the period of probation to include the period of time during which the defendant is a participant in a problem solving court program and for a period of up to one (1) year after a defendant's graduation or termination from a problem solving court program. Under a conviction or plea of guilty for a felony the period of probation may be for a period of not more than the maximum period for which the defendant might have been imprisoned.

SECTION 5. That Section 19-2606, Idaho Code, be, and the same is hereby amended to read as follows:

19-2606. PAROLED OR SUSPENDED OFFENDER -- DUTY TO REPORT -- ORDER ON REPORT. As ordered by the court, it shall be the duty of each person whose sentence is suspended or who is paroled under the provisions of this chapter to appear, or report, at one or more of the regular terms each year, of the court granting the parole or suspending the execution of the judgment, as ordered by the court, during the continuance of such probation, suspension and to furnish, at his own expense, proof, in writing, to the satisfaction of the court, that he has, since he was placed on probation his sentence was suspended or since the last date at which proof has been furnished, complied with the terms and conditions upon which he was placed on probation his sen-

~~tence was suspended by the court. The court shall make each report so made, a part of the court record of the case, and shall, after considering the same, enter an order approving or rejecting the same, and the court may, if the report is not found to be satisfactory, and as ordered by the court, may modify the terms and conditions of suspension or vacate the order of parole, or suspension of sentence, and may then order retained jurisdiction or execution of the judgment as though parole or suspension had not been made.~~

SECTION 6. That Chapter 2, Title 20, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 20-209H, Idaho Code, and to read as follows:

20-209H. DUTY TO ESTABLISH INMATE ACCOUNTS -- PAYMENT OF RESTITUTION. The state board of correction shall establish an account in the name of each inmate confined in a correctional facility. All moneys in the inmate's possession upon admission, all moneys earned from institutional employment and all moneys received by the inmate from any other source, other than money that is contraband, shall be deposited in the inmate's account. If the court ordered an inmate to make restitution under section 19-5304, Idaho Code, and the restitution is still owing, then twenty percent (20%) of each deposit in the inmate's account shall be paid to the state board of correction who shall, within five (5) days after the end of the month, pay such moneys to the clerk of the court in which the restitution order was entered for payment to the victim. The provisions of this section shall apply to any inmate confined in a correctional facility on or after the effective date of this section.

SECTION 7. That Chapter 2, Title 20, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 20-210A, Idaho Code, and to read as follows:

20-210A. COMMISSION OF PARDONS AND PAROLE -- DUTIES AND POWERS. The commission of pardons and parole shall:

- (1) Have the powers relating to commutation, pardon and remission of fines and forfeitures as set forth in section 7, article IV, of the Idaho constitution;
- (2) Subject to and consistent with the provisions of this chapter and section 19-2513, Idaho Code, decide whether any prisoner who is eligible for parole may be released on parole;
- (3) Subject to and consistent with the provisions of this chapter and section 19-2513, Idaho Code, and in compliance with chapter 52, title 67, Idaho Code, promulgate rules to establish the procedures under which any eligible prisoner may be released on parole;
- (4) Specify in writing the conditions of parole for every prisoner released on parole and provide every prisoner released on parole with a copy of the conditions of parole;
- (5) Subject to and consistent with the provisions of this chapter, issue orders of final discharge from parole for eligible parolees; and
- (6) Carry out all other duties and powers relating to the commission as set forth in Idaho Code.

SECTION 8. That Section 20-216, Idaho Code, be, and the same is hereby amended to read as follows:

20-216. ~~BOARD -- POWERS AND DUTIES --~~ RECORDS, REPORTS AND STATISTICS. (1) The board shall keep a record of and require reports from all persons on parole or probation and enforce observance of rules and regulations for parole or probation established by the commission or the courts. It shall prepare and publish reports and statistics relating to probation

and parole and it shall submit to the governor, at such times as the governor may direct, but at least annually, a full and complete report of the board and its agents, showing the disposition of all cases coming before the board or the commission and such additional information relating thereto as the governor may request.

(2) The board and the department of health and welfare shall submit a joint report to the legislature by January 15 each year analyzing:

(a) The criminogenic needs of the active population of probationers and parolees;

(b) Current funding available to deliver effective, evidence-based programming to address those needs; and

(c) Any gap in funding to meet the treatment needs of all moderate and high-risk probationers and parolees.

(3) By November 15, 2015, and biennially on November 15 thereafter, the board shall develop and deliver a report to the governor and the legislature on the programs to reduce recidivism that are funded by the state. Subject to the availability of moneys, the board may contract with an independent contractor or academic institution for this purpose. The report shall include an evaluation of the quality of each program and its likelihood to reduce recidivism among program participants and shall include a plan for program improvements by the board. The program evaluations shall ensure that treatment programs are delivering services in a way that aligns with the scientifically based research to reduce recidivism. Program evaluation shall be standardized and a validated program assessment tool shall be used. Each program evaluation shall include a site visit and interviews with key staff, interviews with offenders, group observation and file and material review. The information shall be compiled into a composite score indicating adherence to concepts that are linked with program effectiveness, such as program development, program procedures, staff, offender assessment, treatment processes and programs and quality assurance. Program evaluation should also include feedback to the program concerning strengths, weaknesses and recommendations for better adherence to scientifically based research and the principles of effective intervention.

(4) For the purposes of this section:

(a) "Program" means a treatment or intervention program or service that is intended to reduce the propensity of a person to commit crimes or improve the mental health of a person with the result of reducing the likelihood that the person will commit a crime or need emergency mental health services. "Program" does not mean or include an educational program or service that an agency is required to provide to meet educational requirements imposed by state law or a program that provides basic medical services.

(b) "Scientifically based research" means research that obtains reliable and valid knowledge by:

(i) Employing systematic, empirical methods that draw on observation or experiment;

(ii) Involving rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn; and

(iii) Relying on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations and across studies by the same or different investigators.

SECTION 9. That Section 20-219, Idaho Code, be, and the same is hereby amended to read as follows:

20-219. PROBATION AND PAROLE SUPERVISION AND TRAINING -- LIMITED SUPERVISION -- RULEMAKING. (1) The state board of correction shall be charged with the duty of:

(a) Supervising all persons convicted of a felony placed on probation or to the board;

(b) Supervising all persons released from the state penitentiary on parole, and;

(c) Supervising all persons convicted of a felony released on parole or probation from other states and residing in the state of Idaho;

(d) Program delivery, as "program" is defined in section 20-216, Idaho Code, to all persons under its probation or parole supervision based on individual criminal risk factors and specific needs;

(e) Making such investigations as may be necessary;

(f) Reporting alleged violations of parole or probation in specific cases to the commission or the courts to aid in determining whether the parole or probation should be continued or revoked;

(g) Reporting alleged violations of the terms or conditions of probation in specific cases to the court and the prosecuting attorney to aid in determining whether the probation should be continued or revoked;
and

(h) Preparing a case history record of the prisoners to assist the commission or the courts in determining if they should be paroled or should be released on probation.

(2) Any person placed on probation or parole and who has been designated as a violent sexual predator pursuant to chapter 83, title 18, Idaho Code, shall be monitored with electronic monitoring technology for the duration of the person's probation or parole period. Any person who, without authority, intentionally alters, tampers with, damages, or destroys any electronic monitoring equipment shall be guilty of a felony.

(3) The state board of correction shall have the discretion to determine the level of supervision of all persons under its supervision, except those who are being supervised by a problem solving court. "Level of supervision" includes the determination of the following:

(a) The frequency, location, methods and nature of contact with the supervising officer;

(b) Testing requirements and frequency;

(c) Contact restrictions;

(d) Curfew restrictions; and

(e) Reporting requirements.

(4) Subject to the availability of moneys, caseloads for supervising officers who are supervising offenders determined by the department of correction's validated risk assessment to be high or moderate risk of rearrest should not exceed an average of fifty (50) offenders per supervising officer.

(5) In carrying out its duty to supervise felony probationers and parolees, the state board of correction shall use evidence-based practices, shall target the offender's criminal risk and need factors with appropriate supervision and intervention and shall focus resources on those identified by the board as moderate-risk and high-risk offenders. The supervision shall include:

(a) Use of validated risk and needs assessments of the offender that measure criminal risk factors, specific individual needs and driving variable supervision levels;

(b) Use of assessment results to guide supervision responses consistent with evidence-based practices as to the level of supervision and the practices used to reduce recidivism;

(c) Collateral and personal contacts with the offender and community that may be unscheduled and which shall occur as often as needed based on the offender's supervision level and risk of reoffense and based on the

need to stay informed of the offender's conduct, compliance with conditions and progress in community-based intervention;

(d) Case planning for each offender assessed as moderate to high risk to reoffend; and

(e) Use of practical and suitable methods that are consistent with evidence-based practices to aid and encourage the offender to improve his or her conduct and circumstances so as to reduce the offender's risk of recidivism.

(6) The state board of correction shall provide all supervising officers with initial and ongoing training and professional development services to support the implementation of evidence-based supervision practices. All supervising officers employed as of the effective date of this section shall complete the training requirements set forth in this subsection on or before July 1, 2016. All supervising officers hired after the effective date of this section shall complete the training requirements set forth in this subsection within two (2) years of their hire date. The training and professional development services shall include:

(a) Assessment techniques;

(b) Case planning;

(c) Risk reduction and intervention strategies;

(d) Effective communication skills;

(e) Behavioral health needs;

(f) Application of core correctional practices, including motivational interviewing, cognitive restructuring, structured skill building, problem solving, reinforcement and use of authority;

(g) Training for supervising officers to become trainers so as to ensure long-term and self-sufficient training capacity in the state; and

(h) Other topics identified by the board as evidence-based practices.

(7) The state board of correction shall promulgate rules in consultation with the Idaho supreme court to:

(a) Establish a program of limited supervision for offenders who qualify addressing eligibility, risk and needs assessments, transfers among levels of supervision and reporting to the court and the prosecuting attorney.

(b) Establish a matrix of swift, certain and graduated sanctions and rewards to be imposed by the board in response to corresponding violations of or compliance with the terms or conditions imposed. Sanctions for violations shall include, but are not limited to, community service, increased reporting, curfew, submission to substance use assessment, monitoring or treatment, submission to cognitive behavioral treatment, submission to an educational or vocational skills development program, submission to a period of confinement in a local correctional facility for no more than three (3) consecutive days and house arrest. Rewards for compliance shall include, but are not limited to, decreased reporting and transfer to limited supervision.

SECTION 10. That Section 20-221, Idaho Code, be, and the same is hereby amended to read as follows:

20-221. MODIFICATION OF TERMS OR CONDITIONS OF PROBATION OR SUSPENSION OF SENTENCE -- TERMINATION OF PROBATION. (1) By order duly entered the court may impose and may at any time modify any terms or conditions of probation or suspension of sentence. The court shall cause a copy of any such order to be delivered to the probation officer and parole officer board of correction, to the prosecuting attorney and to the probationer.

(2) Any party or the board of correction may submit to the court a request to modify the terms and conditions of probation for any probationer under the board's supervision at any time during the period of probation. A request to modify the terms and conditions of probation shall be supported by a

statement attested to under oath or signed under penalty of perjury pursuant to section 9-1406, Idaho Code, setting forth the facts upon which the request is based. The requesting party or the board, as the case may be, shall deliver a copy of the request and statement to all parties and to the board. The prosecuting attorney shall notify the victim of the request to modify the terms and conditions of probation. Any responses to a request to modify shall be filed within thirty (30) days of the date of submittal of the request. The court may, without a hearing, rule upon a request to modify based on a review of the case, the request, the statement and any responses to the request, or may schedule a hearing on the request to modify. The court shall by written order rule on the request to modify within sixty (60) days of the date of submittal of the request.

(3) Any party or the board of correction may submit to the court a request to terminate the probation for any probationer under the board's supervision at any time during the period of probation. A request to terminate probation shall be supported by a statement attested to under oath or signed under penalty of perjury pursuant to section 9-1406, Idaho Code, setting forth the facts upon which the request is based. The requesting party or the board, as the case may be, shall deliver a copy of the request and statement to all parties and to the board. The prosecuting attorney shall notify the victim of a request to terminate probation. Any responses to a request to terminate probation shall be filed within thirty (30) days of the date of submittal of the request. The court may, without a hearing, rule upon a request to terminate based on a review of the case, the request, the statement and any responses to the request, or may schedule a hearing on the request to terminate. The court shall rule on the request within sixty (60) days of the date of submittal of the request. A court order granting a request to terminate probation under this subsection shall be deemed a final discharge from the remaining period of probation.

SECTION 11. That Section 20-222, Idaho Code, be, and the same is hereby amended to read as follows:

20-222. ~~INDETERMINATE OR FIXED PERIOD OF PROBATION OR SUSPENSION OF SENTENCE -- REARREST AND REVOCATION.~~ (1) The period of probation or suspension of sentence ~~may be indeterminate or may~~ shall be fixed by the court, and may at any time be extended or terminated by the court. Such period with any extension thereof shall not exceed the maximum period for which the defendant might have been imprisoned.

(2) At any time during probation or suspension of sentence, the court may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the defendant to be arrested. Thereupon the court, after summary hearing may revoke the probation and suspension of sentence and cause the sentence imposed to be executed, or may cause the defendant to be brought before it and may continue or revoke the probation, or may impose any sentence which originally might have been imposed at the time of conviction. In making a determination to continue or revoke probation and suspension of sentence, the court shall consider the defendant's risks and needs and options for treatment in the community.

SECTION 12. That Section 20-223, Idaho Code, be, and the same is hereby amended to read as follows:

20-223. PAROLE AND RULES GOVERNING -- RESTRICTIONS -- PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION. (a₁) Subject to section 19-2513, Idaho Code, the commission shall have the power to establish rules, ~~policies or procedures~~ in compliance with chapter 52, title 67, Idaho Code, under which any prisoner, excepting any under sentence of death, may be allowed to go upon parole but to remain while on parole in the legal custody and under the control of

the board and subject to be taken back into confinement at the direction of the commission.

(2) Any prisoner who is granted parole under the interstate compact may be required to post a bond prior to release or prior to such acceptance under the interstate compact; such bond may be posted by the prisoner, the prisoner's family, or other interested party. Failure to successfully complete parole may be grounds for forfeiture of the bond. Upon successful completion of parole, the amount of the bond may be returned, less an amount for administrative costs as determined by commission rule, in compliance with chapter 52, title 67, Idaho Code. A request must be made for return of the bond within one (1) year of discharge of the offense for which the particular offender was serving parole. Funds collected through the bonding process will be placed in a separate commission receipts fund which is hereby created in the state treasury and utilized for the extradition of parole violators.

(b3) No person serving a sentence for rape, incest, committing a lewd act upon a child, crime against nature, or with an intent or an assault with intent to commit any such crimes, or whose history and conduct indicate to the commission that he is a sexually dangerous person, shall be released on parole except upon the examination and evaluation of one (1) or more psychiatrists or psychologists or mental health professionals designated for this purpose by the department of correction to be selected by the commission and such evaluation shall be duly considered by the commission in making its parole determination. The commission may, in its discretion, likewise require a similar examination and evaluation for persons serving sentences for crimes other than those above enumerated. No person making such evaluation shall be held financially responsible to any person for denial of parole by the commission or for the results of the future acts of such person if he be granted parole.

(e4) Before considering the parole of any prisoner, the commission shall ensure that a risk assessment has been conducted pursuant to section 20-224, Idaho Code, and shall afford the prisoner the opportunity to be interviewed by the commission, a commissioner or other designated commission staff. A designated report and risk assessment prepared by commission staff or a designated department of correction employee which that is specifically to be used by the commission in making a parole determination shall be exempt from public disclosure; such reports contain information from the presentence investigation report, medical or psychological information, the results of a risk assessment, victim information, designated confidential witness information and criminal history information. A parole shall be ordered when, in the discretion of the commission, it is in the best interests of society, and the commission believes the prisoner is able and willing to fulfill the obligations of a law-abiding citizen. Such determination shall not be a reward of clemency and it shall not be considered to be a reduction of sentence or a pardon. The commission may also by its rules, ~~policies or procedures~~ fix the times and conditions under which any application denied may be reconsidered. No action may be maintained against the commission and/or any of its members in any court in connection with any decision taken by the commission to parole a prisoner and neither the commission nor its members shall be liable in any way for its action with respect thereto.

(d5) In making any parole or commutation decision with respect to a prisoner, the commission shall consider the compliance of the prisoner with any order of restitution which may have been entered according to section 19-5304, Idaho Code. The commission may make compliance with such an order of restitution a condition of parole.

(e6) Except as provided in subsection (a1) of this section, no provision of chapter 52, title 67, Idaho Code, shall apply to the commission.

(f7) Subject to the limitations of this subsection and notwithstanding any fixed term of confinement or minimum period of confinement as provided in section 19-2513, Idaho Code, the commission may parole an inmate for med-

ical reasons. A prisoner may be considered for medical parole only when the prisoner is permanently incapacitated or terminally ill and when the commission reasonably believes the prisoner no longer poses a threat to the safety of society. For the purposes of this section, "permanently incapacitated" shall mean a person who, by reason of an existing physical condition which is not terminal, is permanently and irreversibly physically incapacitated. For the purposes of this section "terminally ill" shall mean a person who has an incurable condition caused by illness or disease and who is irreversibly terminally ill.

(g8) The commission shall prepare and send to the house of representatives and senate judiciary committees annually a report containing the names, medical condition and current status of all persons granted parole pursuant to subsection (f7) of this section.

(9) The department of correction shall promulgate rules in consultation with the commission to prepare prisoners for parole upon completing the fixed portion of the unified sentence based on current risk assessment, criminal history, institutional behavior and programming completion. The department of correction shall give prisoners access to programming so that prisoners will have an opportunity to complete programming to be parole eligible upon completing their fixed sentence. The department shall promulgate rules to include case plan development upon entry into prison so that programming can be completed before the first parole eligibility date and a current risk assessment before all parole hearings.

(10) It is the intent of the legislature to focus prison space on the most violent or greatest risk prisoners. To help accomplish this goal, the commission shall promulgate rules that establish clear guidelines and procedures that retain the commission's discretion in individual cases while achieving a reduction in the overall average percentage of time spent beyond the fixed term for prisoners who have been convicted of a property or drug offense. Such rules shall allow current risk assessment, past criminal history, program completion, institutional misconduct and other individual characteristics related to the likelihood of offending in the future to be factored into when a release decision is made while still working to accomplish the overarching goal of the legislature.

(11) By February 1, 2015, and by February 1 of each year thereafter, the department of correction and the commission shall submit a report to the legislature and governor that describes the percentage of people sentenced to a term in prison for a property or drug offense conviction who are released before serving one hundred fifty percent (150%) of the fixed portion of the sentence, and that documents the most common reasons for people whose release was delayed or denied.

SECTION 13. That Section 20-224, Idaho Code, be, and the same is hereby amended to read as follows:

20-224. INFORMATION REGARDING PRISONERS TO BE SECURED. (1) Within six (6) months after his admission and at such intervals thereafter as it may determine, the board shall secure all pertinent available information regarding each prisoner, including the circumstances of his offense, his previous social history and criminal record, his conduct, employment and attitude in prison, and reports of such physical and mental examinations as have been made to assist the board in prescribing treatment for such person while in confinement and to assist the commission in its deliberations. The board and the commission shall attempt to inform themselves as to such inmate as a personality and may seek from the sentencing judge, prosecuting attorney, defense counsel and law enforcement authorities such information of which they may be possessed relative to the convicted person and the crime for which he was committed. An electronic recording or transcript of the comments and arguments required to be recorded by section 19-2515, Idaho Code, shall be

submitted to the board, made available to the commission, and shall be considered by the commission in making a parole or commutation decision with respect to the prisoner.

(2) The board of correction shall use a validated risk assessment to determine, for each prisoner, the risk of reoffense and suitability for release. For purposes of this subsection, "validated risk assessment" means an actuarial tool that has been validated in Idaho to determine the likelihood of the prisoner engaging in future criminal behavior. The board shall select a research-based risk assessment and shall validate the accuracy of the risk assessment at least every five (5) years in consultation with the commission. Assessments shall be performed by department staff who are trained and certified in the use of the risk assessment. The commission shall promulgate rules in compliance with chapter 52, title 67, Idaho Code, to ensure that risk assessment is used in determining parole, the benefit of holding a prisoner in prison to complete programming versus releasing the prisoner on parole to complete programming in the community and in setting conditions for parole supervision.

SECTION 14. That Section 20-227, Idaho Code, be, and the same is hereby amended to read as follows:

20-227. ARREST OF PAROLEE, PROBATIONER OR PERSON UNDER DRUG COURT OR MENTAL HEALTH COURT SUPERVISION WITHOUT WARRANT -- AGENT'S WARRANT -- DETENTION -- REPORT TO COMMISSION OR COURT. (1) Any parole or probation officer may arrest a parolee, probationer, or person under drug court or mental health court supervision without a warrant, or may deputize any other officer with power of arrest to do so, by giving such officer a written statement hereafter referred to as an agent's warrant, setting forth that the parolee, probationer, or person under drug court or mental health court supervision has, in the judgment of said parole or probation officer, violated the conditions of drug court or mental health court or conditions of his parole or probation. The provisions of this section shall apply where the court has provided for the service of discretionary jail time.

(2) Such written statement or agent's warrant, delivered with the parolee, probationer, or person under drug court or mental health court supervision by the arresting officer to the official in charge of the institution from which the parolee was released, the county jail or other place of detention, shall be sufficient warrant for the detention of the probationer, parolee, or person under drug court or mental health court supervision.

(3) The agent's warrant issued by the parole or probation officer shall be sufficient authorization for a local law enforcement officer to transport the probationer, parolee, or person under drug court or mental health court supervision to the appropriate jurisdiction to be housed pending appearance before the sentencing court or the commission.

(4) The parole and probation officer shall at once notify the commission, or the court, of the arrest and detention of the parolee, probationer, or person under drug court or mental health court supervision, and shall submit in writing a report showing in what manner the parolee, probationer, or person under drug court or mental health court supervision is alleged to have violated the condition of his or her parole, probation, or drug court or mental health court program. When a probationer is arrested pursuant to an agent's warrant, the supervising officer shall provide the prosecuting attorney with a copy of the notice of arrest and the report.

(5) In counties where there are misdemeanor probation officers in addition to department of correction parole or probation officers, those officers shall have the same authority conferred upon department of correction parole or probation officers in this section, to arrest a misdemeanor probationer without a warrant for misdemeanor probation violations occurring in the officer's presence as otherwise provided in this section.

(6) When a probationer has been arrested by the supervising officer without a warrant or pursuant to an agent's warrant, the supervising officer shall submit to the court, to the prosecuting attorney and to the facility where the probationer is detained, a statement of probable cause for the violation. The statement shall be attested to under oath or under penalty of perjury pursuant to section 9-1406, Idaho Code, and shall be submitted within twenty-four (24) hours of the arrest. If a judicial determination of probable cause is not made within forty-eight (48) hours of arrest, then the probationer shall be released.

SECTION 15. That Section 20-228, Idaho Code, be, and the same is hereby amended to read as follows:

20-228. CONDITIONS OF PAROLE TO BE SPECIFIED IN WRITING -- WARRANT FOR ARREST OF SUSPECTED VIOLATORS -- EFFECT OF SUSPENSION AND ARREST. The commission for pardons and parole, in releasing a person on parole, shall specify in writing the conditions of parole, and a copy of such conditions shall be given to the person paroled. The commission shall include in the conditions of parole a requirement that the defendant enter into and comply with an agreement of supervision with the board of correction. The agreement of supervision shall include provisions setting forth the potential sanctions for a violation of the conditions imposed and potential rewards for compliance with the conditions imposed, as such sanctions and rewards are set forth in rules of the board. Whenever the commission finds that a parolee may have violated the conditions of parole, the written order of the commission, signed by a member or members of the commission or the executive director, shall be sufficient warrant for any law enforcement officer to take into custody such person, and it is hereby made the duty of all sheriffs, police, constables, parole and probation officers, prison officials and other peace officers, to execute such order. Such warrant shall serve to suspend the person's parole until a determination on the merits of the allegations of the violation has been made pursuant to a revocation hearing. From and after the issuance of the warrant and suspension of the parole of any convicted person and until arrest, the parolee shall be considered a fugitive from justice. Such person so recommitted, except as provided in section 20-229B, Idaho Code, must serve out the sentence, and the time during which such prisoner was out on parole shall not be deemed a part thereof, unless the commission, in its discretion, shall determine otherwise, but nothing herein contained shall prevent the commission from again paroling such prisoners at its discretion.

SECTION 16. That Section 20-229A, Idaho Code, be, and the same is hereby amended to read as follows:

20-229A. NOTICE -- SERVICE -- WAIVER. (1) Within fifteen (15) calendar days following arrest and detention on a warrant issued by the Idaho commission for pardons and parole, the alleged parole violator shall be personally served with a copy of the factual allegations of the violation of the conditions of parole by a state probation and parole officer, a law enforcement official or other as designated by the executive director. When accused of a violation of his parole, other than by absconding supervision or the commission of, and conviction for, a felony or misdemeanor, the alleged parole violator shall be advised of the right to an on-site parole revocation hearing and of procedural rights and privileges as provided by this act. The alleged parole violator, after service of the allegation of violations of the conditions of parole and the notification of rights, may waive the on-site parole revocation hearing as provided by section 20-229, Idaho Code. If the alleged parole violator waives the right to an on-site hearing, the commission, ex-

ecutive director or hearing officer shall designate the facility where the hearing will be conducted.

(2) Whenever a paroled prisoner is accused of a violation of his parole by absconding supervision or the commission of, and conviction for, a felony or misdemeanor under the laws of this state, or any other state, or any federal laws, and following arrest and detention on a warrant issued by the Idaho commission for pardons and parole, the alleged parole violator shall be personally served with a copy of the factual allegations of the violation of the conditions of parole within a reasonable time. The alleged parole violator shall be advised of the right to a hearing and all other rights and privileges as provided by this act. The executive director or hearing officer shall designate the facility where the hearing will be conducted. A fair and impartial hearing of the charges will be conducted within a reasonable time.

(3) The alleged parole violator may waive the right to any hearing, and at that time may admit one (1) or more of the alleged violations of the conditions of parole. If the waiver is accepted by the commission or hearing officer: (i) the parolee may be reinstated under the same or modified conditions, or (ii) the parolee shall be ~~revoked and the parolee remanded to custody~~ subject to an expedited determination by the commission consistent with the provisions of section 20-229B, Idaho Code, without a hearing. If all waivers made by the parolee are rejected by the commission or designated hearing officer, a parole revocation hearing shall be held either on-site or at a penitentiary facility.

SECTION 17. That Section 20-229B, Idaho Code, be, and the same is hereby amended to read as follows:

20-229B. COMMISSION RULINGS. (1) After a factual parole revocation hearing has been concluded, the member or members of the commission for pardons and parole or the designated hearing officer, having heard the matter, shall enter a decision within twenty (20) days. If the alleged parole violator waives the parole hearing pursuant to the provisions of section 20-229A(3), Idaho Code, then a decision shall be entered upon acceptance of the waiver.

(2) If the member or members or hearing officer, having heard the matter, should conclude that the allegations of violation of the conditions of parole have not been proven by a preponderance of the evidence, or those which have been proven by a preponderance of the evidence are not sufficient cause for the revocation of parole, then the parolee shall be reinstated on parole on the same or modified conditions of parole.

(3) Except as otherwise provided in subsection (4) of this section, if the member or members or hearing officer, having heard the matter, should conclude that the allegations of violation of the conditions of parole have been proven by a preponderance of the evidence and constitute sufficient cause for the revocation of parole, then the violation does not result from a conviction of a new felony or violent misdemeanor, then the commission shall:

(a) Cause the parolee to be confined for a period of up to ninety (90) days effective immediately upon entering the decision;

(b) For a second parole violation, cause the parolee to be confined for a period of up to one hundred eighty (180) days effective immediately upon entering the decision; or

(c) For a third or subsequent parole violation, convene a dispositional hearing shall be convened during a regular session of the commission to execute an order of parole revocation and determine the period of time the parole violator shall be returned to state custody.

(4) If the member or members or hearing officer, having heard the matter, should conclude that the allegations of violation of parole by abscond-

ing supervision have been proven by a preponderance of the evidence, then the commission shall:

(a) Cause the parolee to be confined for a period of up to one hundred eighty (180) days effective immediately upon entering the decision; or

(b) For a second or subsequent parole violation by absconding supervision, convene a dispositional hearing during a regular session of the commission to execute an order of parole revocation and determine the period of time the parole violator shall be returned to state custody.

(5) If the commission causes a parolee to be confined under subsection (3) (a), (3) (b) or (4) (a) of this section, then the commission may reduce the period of confinement by up to thirty (30) days if the commission finds that there has been no instance of misconduct during the period of time the parolee is confined.

(6) Upon completion of a term of confinement under this section, accounting for any reduction in subsection (5) of this section, the parolee shall be released to parole supervision.

SECTION 18. That Section 20-233, Idaho Code, be, and the same is hereby amended to read as follows:

20-233. FINAL DISCHARGE OF PAROLEE -- MINIMUM TERM. (1) When any paroled prisoner has performed the obligations of his parole for such time as shall satisfy the commission that his final release is not incompatible with his welfare and that of society, the commission may make the final order of discharge and issue to the paroled prisoner a certificate of discharge; but no such order of discharge shall be made in any case within a period of less than one (1) year after the date of release on parole, except that when the period of the maximum sentence provided by law shall expire at an earlier date, then a final order of discharge must be made and a certificate of discharge issued to the paroled prisoner not later than the date of expiration of said maximum sentence.

(2) The board of correction may submit a request to the commission for an order of final discharge from the remaining period of parole for any parolee under the board's supervision at any time during the period of parole. A request for final discharge shall be supported by a statement attested to under oath or signed under penalty of perjury pursuant to section 9-1406, Idaho Code, setting forth the facts upon which the request is based. The commission shall notify the victim of a request for final discharge from parole. Any response to a request for final discharge shall be filed within thirty (30) days of the date of submittal of the request. The commission may, without a hearing, rule upon a request for final discharge based on a review of the case, the request, the statement and any responses to the request, or may schedule a hearing on the request. The commission shall rule on the request for final discharge within ninety (90) days of the date of submittal of the request.

SECTION 19. That Section 19-2513, Idaho Code, be, and the same is hereby amended to read as follows:

19-2513. UNIFIED SENTENCE. (1) Whenever any person is convicted of having committed a felony, the court shall, unless it shall commute the sentence, suspend or withhold judgment and sentence or grant probation, as provided in chapter 26, title 19, Idaho Code, or unless it shall impose the death sentence as provided by law, sentence such offender to the custody of the state board of correction. The court shall specify a minimum period of confinement and may specify a subsequent indeterminate period of custody. The court shall set forth in its judgment and sentence the minimum period of confinement and the subsequent indeterminate period, if any, provided, that the aggregate sentence shall not exceed the maximum provided by law. During a

minimum term of confinement, the offender shall not be eligible for parole or discharge or credit or reduction of sentence for good conduct except for meritorious service except as provided in section 20-223(£7), Idaho Code. The offender may be considered for parole or discharge at any time during the indeterminate period of the sentence and as provided in section 20-223(£7), Idaho Code.

(2) If the offense carries a mandatory minimum penalty as provided by statute, the court shall specify a minimum period of confinement consistent with such statute. If the offense is subject to an enhanced penalty as provided by statute, or if consecutive sentences are imposed for multiple offenses, the court shall, if required by statute, direct that the enhancement or each consecutive sentence contain a minimum period of confinement; in such event, all minimum terms of confinement shall be served before any indeterminate periods commence to run.

(3) Enactment of this amended section shall not affect the prosecution, adjudication or punishment of any felony committed before the effective date of enactment.

SECTION 20. That Chapter 2, Title 20, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 20-250, Idaho Code, and to read as follows:

20-250. DEPARTMENT OF CORRECTION REPORTING REQUIREMENTS. The department of correction shall report to the legislature by February 1 of each year on the amount of savings generated and on the prison population impact under the policy framework of this act for the purpose of tracking the progress toward meeting the impact estimates and goals of the act.

SECTION 21. The provisions of this act shall be in full force and effect on and after July 1, 2014, except that the provisions of Sections 4, 6, 9, 14, 15, 16 and 17 of this act shall be in full force and effect on and after March 1, 2015, and the provisions of Section 20 of this act shall be in full force and effect on and after January 1, 2016.

Approved March 19, 2014

CHAPTER 151
(S.B. No. 1367)

AN ACT

APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 2015; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Industrial Commission, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COMPENSATION:					
FROM:					
Industrial Administration					
Fund	\$3,274,700	\$1,060,000	\$72,200	\$1,185,100	\$5,592,000
Peace Officer and Detention Officer Temporary Disability					
Fund	7,800	3,800		156,100	167,700
Miscellaneous Revenue					
Fund	<u>0</u>	<u>35,500</u>	<u>0</u>	<u>0</u>	<u>35,500</u>
TOTAL	\$3,282,500	\$1,099,300	\$72,200	\$1,341,200	\$5,795,200
II. REHABILITATION:					
FROM:					
Industrial Administration					
Fund	\$3,124,300	\$649,200	\$74,100		\$3,847,600
III. CRIME VICTIMS COMPENSATION:					
FROM:					
Crime Victims Compensation					
Fund	\$763,300	\$238,500	\$2,500	\$2,000,000	\$3,004,300
Federal Grant					
Fund	<u>0</u>	<u>0</u>	<u>0</u>	<u>800,000</u>	<u>800,000</u>
TOTAL	\$763,300	\$238,500	\$2,500	\$2,800,000	\$3,804,300
IV. ADJUDICATION:					
FROM:					
Industrial Administration					
Fund	\$1,673,800	\$562,900	\$6,800		\$2,243,500
GRAND TOTAL	\$8,843,900	\$2,549,900	\$155,600	\$4,141,200	\$15,690,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Industrial Commission is authorized no more than one hundred thirty-seven and twenty-five hundredths (137.25) full-time equivalent positions at any point during the period July 1, 2014, through June 30, 2015, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. It is the intent of the Legislature, working cooperatively with the Governor's Office, the Division of Human Resources, and the Division of Financial Management, to progress toward the goal of funding a competitive salary and benefit package that will attract qualified applicants, retain employees committed to public service excellence, motivate employees to maintain high standards of productivity, and reward employees for outstanding performance by:

- 1) Adjusting the compensation schedule upwards by 1% to move the salary structure toward market; and
- 2) Continuing the job classifications that are currently on payline exception to address specific recruitment or retention issues; and
- 3) Funding an ongoing 1% salary increase for state employees, and funding the equivalent of a one-time 1% bonus for state employees, based upon employee merit, with flexibility in distribution as determined by the agency directors.

The Legislature also finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees and also to target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 19, 2014

CHAPTER 152
(S.B. No. 1368)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 2015; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING LEGISLATIVE INTENT FOR THE MORTGAGE RECOVERY FUND; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Department of Finance, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
State Regulatory				
Fund	\$5,317,500	\$1,657,500	\$135,900	\$7,110,900
Mortgage Recovery				
Fund	0	50,000	0	50,000
Securities Investor Training				
Fund	<u>50,000</u>	<u>0</u>	<u>0</u>	<u>50,000</u>
TOTAL	\$5,367,500	\$1,707,500	\$135,900	\$7,210,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Finance is authorized no more than sixty-four (64) full-time equivalent positions at any point during the period July 1, 2014, through June 30, 2015, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. LEGISLATIVE INTENT. The Department of Finance is hereby granted continuous appropriation authority for reimbursement of persons to whom an Idaho court awards actual damages resulting from acts constituting violations of the Idaho Residential Mortgage Practices Act by a mortgage broker, mortgage lender or mortgage loan originator who was licensed or required to be licensed according to Section 26-31-109, Idaho Code.

SECTION 4. EMPLOYEE COMPENSATION. It is the intent of the Legislature, working cooperatively with the Governor's Office, the Division of Human Resources, and the Division of Financial Management, to progress toward the goal of funding a competitive salary and benefit package that will attract qualified applicants, retain employees committed to public service excellence, motivate employees to maintain high standards of productivity, and reward employees for outstanding performance by:

- 1) Adjusting the compensation schedule upwards by 1% to move the salary structure toward market; and
- 2) Continuing the job classifications that are currently on payline exception to address specific recruitment or retention issues; and
- 3) Funding an ongoing 1% salary increase for state employees, and funding the equivalent of a one-time 1% bonus for state employees, based upon employee merit, with flexibility in distribution as determined by the agency directors.

The Legislature also finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees and also to target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

CHAPTER 153
(S.B. No. 1371)

AN ACT

RELATING TO DEPARTMENT OF CORRECTION APPROPRIATIONS AND TRANSFERS; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE MANAGEMENT SERVICES PROGRAM FOR FISCAL YEAR 2014; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE CORRECTIONAL ALTERNATIVE PLACEMENT PROGRAM FOR FISCAL YEAR 2014; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE COUNTY AND OUT-OF-STATE PLACEMENT PROGRAM FOR FISCAL YEAR 2014; APPROPRIATING AND TRANSFERRING CERTAIN MONEYS FROM THE SUPREME COURT TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2014; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT PROGRAM FOR FISCAL YEAR 2014; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE MEDICAL SERVICES PROGRAM FOR FISCAL YEAR 2014; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR PRIVATE PRISONS FOR FISCAL YEAR 2014; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 3, Chapter 318, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated \$200,000 from the General Fund to the Department of Correction, for the Management Services Program, to be expended for operating expenditures, for the period July 1, 2013, through June 30, 2014, for the purpose of covering the cost of legal fees in the Walter D. Balla et al. v. Idaho State Board of Correction et al. court case.

SECTION 2. In addition to the appropriation made in Section 3, Chapter 318, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated \$40,600 from the General Fund to the Department of Correction, for the Correctional Alternative Placement Program, to be expended for operating expenditures, for the period July 1, 2013, through June 30, 2014, for the purpose of housing additional inmates at that facility.

SECTION 3. In addition to the appropriation made in Section 3, Chapter 318, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated \$407,500 from the General Fund to the Department of Correction, for the County and Out-of-State Placement Program, to be expended for operating expenditures, for the period July 1, 2013, through June 30, 2014, for the purpose of covering the cost of housing inmates in county jails or in out-of-state facilities.

SECTION 4. There is hereby appropriated, and the State Controller shall transfer, as soon as practicable, the sum of \$943,425.60 from the Substance Abuse Treatment Fund within the Supreme Court to the Substance Abuse Treatment Fund within the Department of Correction.

SECTION 5. In addition to the appropriation made in Section 3, Chapter 318, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated \$818,900 from the Substance Abuse Treatment Fund to the Department of Correction, for the Community-Based Substance Abuse Treatment Program, to be expended for trustee and benefit payments, for the period July 1, 2013, through June 30, 2014, for the purpose of providing substance abuse treatment to eligible offenders.

SECTION 6. In addition to the appropriation made in Section 3, Chapter 318, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated to the Department of Correction, for the Medical Services Program, the following amount to be expended for operating expenditures, from the listed funds for the period July 1, 2013, through June 30, 2014, for the purpose of covering the cost of inmate medical care that is provided under contract with Corizon Health, Incorporated.

FROM:

General Fund	\$1,045,500
Miscellaneous Revenue Fund	<u>150,000</u>
TOTAL	\$1,195,500

SECTION 7. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Correction for Private Prisons in Section 3, Chapter 318, Laws of 2013, from the General Fund, is hereby reduced by \$502,300 for operating expenditures, for the period July 1, 2013, through June 30, 2014, for the purpose of removing one-time savings at the privately operated Idaho Correctional Center.

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 19, 2014

CHAPTER 154
(S.B. No. 1377)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-118, IDAHO CODE, TO REMOVE LANGUAGE IN THE CATCHLINE RELATING TO ONLINE COURSES AND TO ESTABLISH PROVISIONS RELATING TO THE BOARD OF TRUSTEES OF EACH SCHOOL DISTRICT ADOPTING CURRICULAR MATERIALS.

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

SECTION 1. That Section 33-118, Idaho Code, be, and the same is hereby amended to read as follows:

33-118. COURSES OF STUDY -- CURRICULAR MATERIALS ---~~ONLINE COURSES~~. (1) The state board shall prescribe the minimum courses to be taught in all public elementary and secondary schools, and shall cause to be prepared and issued, such syllabi, study guides and other instructional aids as the board shall from time to time deem necessary.

(2) The board shall determine how and under what rules curricular materials shall be adopted for the public schools, including the fees necessary to defray the cost of such adoption process. The board shall require all publishers of textbooks approved for use to furnish the department of education with electronic format for literary and nonliterary subjects when electronic formats become available for nonliterary subjects, in a standard format approved by the board, from which reproductions can be made for use by the blind.

(3) The board shall, by rule, determine the process by which the department of education reviews and approves online courses, pursuant to section 33-1024, Idaho Code, and the fees necessary to defray the department's cost of such review and approval process.

(4) The board of trustees of each school district may adopt their own curricular materials consistent with the provisions of section 33-512A, Idaho Code. Curricular materials adopted must be consistent with Idaho content standards as established by the state board of education.

Approved March 19, 2014

CHAPTER 155
(H.B. No. 346)

AN ACT

RELATING TO THE LANDSCAPE ARCHITECT REGISTRATION AND LICENSING ACT; AMENDING SECTION 54-3002, IDAHO CODE, TO REVISE A DEFINITION.

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

SECTION 1. That Section 54-3002, Idaho Code, be, and the same is hereby amended to read as follows:

54-3002. DEFINITIONS. As used in this chapter:

(1) "Landscape architect" means a person who holds a license to practice landscape architecture in the state of Idaho under the authority of this chapter.

(2) "Landscape architecture" means the performance of professional services such as consultations, investigation, reconnaissance, research, planning, design or responsible supervision in connection with the development of land and incidental water areas where, and to the extent that the dominant purpose of such services is the preservation, enhancement or determination of proper land uses, natural land features, ground cover and planting, naturalistic and aesthetic values, approaches to buildings, structures, facilities or other improvements, natural drainage and the consideration and determination of inherent problems of the land relating to erosion, wear and tear, light or other hazards, but shall not include the application of geological principles. This practice shall include the location, design and arrangement of such tangible objects as pools, walls, steps, trellises, canopies, and features as are incidental and necessary to the purposes outlined herein, but shall not include the design of structures or facilities with separate and self-contained purposes for habitation or industry, such as are ordinarily included in the practice of engineering or architecture; and shall not include the making of cadastral surveys or final land plats for official recording or approval. It involves the design and arrangement of land forms and the development of outdoor space including, but not limited to, the design of public parks, playgrounds, cemeteries, home and school grounds, and the development of industrial and recreational sites.

(3) "Board" means the Idaho state board of landscape architects.

(4) "Department" means the department of self-governing agencies of the state of Idaho.

(5) "Landscape architect-in-training" means a person who has met the qualifications of section 54-3003(2) (a) and (b), Idaho Code, and is working under the supervision of a licensed landscape architect. A landscape architect-in-training shall use the title "landscape architect-in-training" in accordance with board rule.

(6) "Public" means any person, firm, corporation, partnership, company, government agency, institution or any other entity recognized by law.

(7) "Rules of professional responsibility" means those rules, if any, promulgated by the board.

Approved March 19, 2014

CHAPTER 156
(H.B. No. 347)

AN ACT

RELATING TO THE IDAHO REAL ESTATE APPRAISERS ACT; AMENDING SECTION 54-4106, IDAHO CODE, TO PROVIDE AN ADDITIONAL POWER AND DUTY OF THE REAL ESTATE APPRAISER BOARD.

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

SECTION 1. That Section 54-4106, Idaho Code, be, and the same is hereby amended to read as follows:

54-4106. REAL ESTATE APPRAISERS -- REAL ESTATE APPRAISER BOARD -- POWERS AND DUTIES -- COMPENSATION. (1) There is hereby created in the department of self-governing agencies, a real estate appraiser board, hereinafter referred to as the "board," which shall administer the provisions of this chapter. The board shall consist of five (5) members to be appointed by the governor as follows:

(a) One (1) from the northern district consisting of the counties of Idaho, Lewis, Nez Perce, Clearwater, Latah, Benewah, Boundary, Shoshone, Kootenai and Bonner; one (1) from the southeastern district consisting of the counties of Lemhi, Butte, Clark, Fremont, Jefferson, Madison, Teton, Bonneville, Bingham, Caribou, Bear Lake, Franklin, Oneida, Power and Bannock; one (1) from the southwestern district consisting of the counties of Owyhee, Elmore, Ada, Canyon, Boise, Gem, Payette, Washington, Adams and Valley; one (1) from the south central district consisting of the counties of Blaine, Camas, Cassia, Custer, Gooding, Jerome, Lincoln, Minidoka and Twin Falls; and one (1) from the state at large;

(b) On July 1, 1990, the governor shall appoint the members of the board, each of whom shall be a real estate appraiser with not less than five (5) years' experience in the real estate appraisal business in Idaho. As of July 1, 1999, the board appointment from the state at large is extended for a period of two (2) years and the board appointment from the south central district is extended for a period of one (1) year. Each regular appointment thereafter, other than an appointment to fill an unexpired term, shall be for a term of four (4) years and each board member shall hold office until a successor is appointed and qualified. Upon the death, resignation or removal of any member of the board, the governor shall appoint a state licensed or state certified real estate appraiser to fill the unexpired term. Appointments to fill any vacancy other than that resulting from the expiration of a term shall be made for the unexpired term. After July 1, 1991, new board members shall be required to be state licensed or certified real estate appraisers with not less than five (5) years' experience in the real estate appraisal business in Idaho;

(c) Within fifteen (15) days after the appointment of the members of the board, the board shall call a meeting and organize by the election of a chairman. Thereafter, the chairman may call meetings of the board whenever he deems it advisable but if he refuses to call a meeting upon written demand of the other four (4) members of the board, then such members may call such meeting. Reasonable notice shall be given in writing by mail of such meeting.

(2) The board shall have, in addition to the powers conferred elsewhere in this chapter, the following powers and duties:

(a) To authorize, by written agreement, the bureau of occupational licenses to act as its agent in its interest;

(b) To adopt, pursuant to the administrative procedure act, such rules as the board, in its discretion, deems necessary for the administration and enforcement of this chapter, and any such rules deemed necessary by the board to keep the Idaho real estate appraisers act in compliance with federal law, rule, regulation or policy;

(c) To conduct investigations into violations of the provisions of this chapter;

(d) To receive applications for and issue licenses or certificates to real estate appraisers pursuant to this chapter;

(e) To hold meetings, hearings and examinations at such places and at such times as it shall designate;

(f) To collect, deposit and disburse application and other fees, as required by this chapter or federal law;

(g) To maintain a register of all state licensed or certified residential and state certified general real estate appraisers;

(h) To censure a state licensed or certified appraiser or suspend or revoke appraisal licenses or certificates as provided in this chapter, subject to the provisions of the Idaho administrative procedure act, chapter 52, title 67, Idaho Code; and

(i) To adopt rules governing the registration and limitations of real estate appraiser trainees; and

(j) To require new applicants to submit to a satisfactory fingerprint-based criminal history check of the Idaho central criminal database and the federal bureau of investigation criminal history database and to collect fees from applicants for the costs of such background check.

(3) Each member of the board of real estate appraisers shall be compensated as provided in section 59-509 (m), Idaho Code.

Approved March 19, 2014

CHAPTER 157
(H.B. No. 359)

AN ACT

RELATING TO DRIVING BUSINESSES; AMENDING SECTION 54-5403, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DRIVING BUSINESS LICENSURE BOARD AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-5406, IDAHO CODE, TO REMOVE AN EFFECTIVE DATE AND TO PROVIDE THAT AN APPRENTICESHIP REQUIREMENT MAY BE WAIVED UNDER CERTAIN CIRCUMSTANCES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-5403, Idaho Code, be, and the same is hereby amended to read as follows:

54-5403. BOARD -- TERMS OF MEMBERS -- QUALIFICATIONS -- POWERS AND DUTIES -- MEETINGS -- COMPENSATION. (1) A driving businesses licensure board is hereby established in the department of self-governing agencies whose duty it shall be to administer the provisions of this chapter.

(2) The board shall consist of five (5) members appointed by the governor. The governor may consider recommendations for appointment to the board from the Idaho association of professional driving businesses, any association of driving businesses or from any individual residing in this state. The board shall consist of four (4) members who ~~have been in the driving business for at least five (5) years~~ are licensed under this chapter and one (1)

member of the public who has been a customer of private driver education. At least one (1) member shall be a driving business owner.

~~(3) Members shall begin their terms on July 1, 2009, and serve at the pleasure of the governor. Terms shall initially be staggered as follows: one (1) member whose term expires July 1, 2010; two (2) members whose terms expire July 1, 2011; and two (2) members whose terms expire July 1, 2012. Thereafter, each Board members of the board shall serve be appointed for a term of three (3) years terms. No member of the board may be appointed to more than two (2) consecutive terms. Members of the board shall hold office until the expiration of the term for which they were appointed and until their successors have been appointed and qualified. In the event of a vacancy other than expiration of a term, the governor shall appoint a replacement to fill the vacancy for the remainder of the unexpired term.~~

~~(4) Members of the board who are driving business owners shall be citizens of the United States and residents of this state, and they shall have been licensed driving business owners with a minimum of five (5) years of continuous licensing prior to being nominated, and shall never have been the subject of a disciplinary action under the provisions of section 54-5409, Idaho Code.~~

(5) The board shall:

(a) Enforce the minimum standards and requirements as provided in this chapter and by rule adopted by the board. The board may promulgate such rules, in compliance with chapter 52, title 67, Idaho Code, as may be necessary to carry out the provisions of this chapter in order to effectuate the purposes herein and for the orderly and efficient administration thereof, except as may be limited or prohibited by law and the provisions of this chapter;

(b) Accept or reject applications for licensing, business and instruction, and establish the fees to be charged for original application and renewal, subject to the provisions of this chapter;

(c) Hold and attend public meetings, and furnish copies of information to those engaged in the business and to the public upon request;

(d) Review and approve instructor training curriculum and programs;

(e) Contract with the bureau of occupational licenses to provide administrative services;

(f) Include a link on the bureau of occupational licenses' website to current curriculum components offered by private driver education businesses; and

(g) Adopt rules providing for continuing education.

(6) The board shall have the authority to conduct inspections and audits of any licensed driving business or any licensed instructor to ensure compliance with the laws and rules of the board. Failure to cooperate with an inspection or audit may constitute grounds for disciplinary action.

~~(7) The board shall meet within thirty (30) days after the appointment of its members and thereafter at such times as may be expedient and necessary for the proper performance of its duties, but it shall not meet less than once per year.~~

~~(8) At the board's first meeting, the members shall elect annually one (1) of their number to be chairman and then shall elect a chairman annually thereafter. The chairman may serve in such capacity for a one (1) year term and may not serve in such capacity for more than two (2) consecutive terms.~~

(9) A majority of the board shall constitute a quorum for the transaction of business.

(10) Each member of the board shall be compensated as provided by section 59-509(k), Idaho Code.

SECTION 2. That Section 54-5406, Idaho Code, be, and the same is hereby amended to read as follows:

54-5406. DRIVING INSTRUCTORS -- REQUIREMENTS. (1) Each person applying for a driving instructor license must complete an application provided by the bureau of occupational licenses that requires the applicant to be at least twenty-one (21) years of age, have written evidence of graduation from a high school, an accredited college or university or a GED, a valid driver's license and a satisfactory driving record from the jurisdiction from which the license was issued, a satisfactory fingerprint-based criminal history check of the Idaho central criminal database and the federal bureau of investigation criminal history database, a medical certificate and any required completed coursework. Licensees shall certify that they hold a current medical certificate at the time of license renewal.

(2) ~~On and after July 1, 2010, e~~Every new applicant for a license pursuant to this chapter shall have completed a board approved apprenticeship training program of not less than sixty (60) hours of classroom instruction and one hundred eight (108) hours of behind-the-wheel training. The board may waive, as a whole or either part, the apprenticeship for an applicant who holds a current, active and unrestricted equivalent instructor license from another state or who has the requisite training and experience as demonstrated in a manner established by board rule. Such applicant shall submit supporting documentation with the completed application and shall meet all other requirements in this chapter and in board rule.

(3) If the board granted any instructor a license without the satisfactory fingerprint-based criminal history check as provided in subsection (1) of this section, such licensee shall obtain and submit the required fingerprint-based criminal history check to the board on or before the date of the licensee's first renewal ~~occurring after the effective date of this act.~~

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

Approved March 19, 2014

CHAPTER 158
(H.B. No. 360)

AN ACT

RELATING TO ARCHITECTS; AMENDING SECTION 54-302, IDAHO CODE, TO REMOVE A CERTAIN REQUIREMENT OF PERSONS APPLYING FOR AN ARCHITECTURE LICENSE EXAMINATION; AMENDING SECTION 54-303, IDAHO CODE, TO REVISE PROVISIONS RELATING TO REGULAR EXAMINATIONS; AMENDING SECTION 54-305, IDAHO CODE, TO PROVIDE ADDITIONAL GROUNDS FOR DISCIPLINE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-307, IDAHO CODE, TO REMOVE LICENSING PROVISIONS FOR FIRM NAMES; AMENDING SECTION 54-308, IDAHO CODE, TO REVISE PROVISIONS RELATING TO LICENSED ARCHITECTS' SEALS; AND REPEALING SECTION 54-316, IDAHO CODE, RELATING TO FOREIGN PARTNERSHIP AND CORPORATE PRACTICE.

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

SECTION 1. That Section 54-302, Idaho Code, be, and the same is hereby amended to read as follows:

54-302. QUALIFICATIONS FOR EXAMINATION AND LICENSE. (1) A person applying for examination shall submit satisfactory evidence of the following to the board of architectural examiners:

(a) Graduation from an accredited architectural curriculum in a school or college approved by the board of architectural examiners as of satisfactory standing, and a specific record of having started or completed ~~an additional three (3) years or more of~~ experience in architectural work in an internship setting of a character deemed satisfactory by the board, by rule indicating that the applicant is competent to practice architecture; or

(b) That the applicant has attained standards, as the board may adopt by rule, of knowledge and skill approximating that attained through graduation from an accredited architectural curriculum, and a specific record of eight (8) years or more of experience in architectural work of a character deemed satisfactory by the board by rule, indicating that the applicant is competent to practice architecture, and a specific record of having started or completed ~~an additional three (3) years or more of~~ experience in architectural work in an internship setting of a character deemed satisfactory by the board.

(2) A person is qualified for all examination divisions once they have met the graduation requirement and started the internship program as defined in the board rules or met the eight (8) years of experience requirement as approved by the board and started the internship program as defined in the board rules.

(3) A person is qualified for a license once they have established a specific record of successful passage of all examination divisions and the completion of ~~three (3) years or more of~~ experience in architectural work in an internship setting of a character deemed satisfactory by the board.

(4) The board may adopt, by rule, as its own standards for education and experience, the guidelines published by the national council of architectural registration boards.

SECTION 2. That Section 54-303, Idaho Code, be, and the same is hereby amended to read as follows:

54-303. REGULAR EXAMINATIONS. The bureau of occupational licenses shall facilitate examinations for a license to practice architecture, if there be any such applicants. The examinations shall be ~~conducted~~ approved by the board of architectural examiners ~~under and be administered using~~ fair and wholly impartial methods and subject to such rules as the board may establish to test the applicant's qualifications in all branches of the professional practice of architecture with special reference to the structural stability of buildings and the protection of life, health, and property. The board may adopt, by rule, the examinations and recommended grading procedures of the national council of architectural registration boards.

SECTION 3. That Section 54-305, Idaho Code, be, and the same is hereby amended to read as follows:

54-305. GROUNDS FOR DISCIPLINE -- JUDICIAL REVIEW -- PENALTIES -- SUBSEQUENT LICENSE. (1) The board may refuse to grant, or may temporarily suspend or otherwise restrict a license to practice architecture in this state for a period not to exceed two (2) years, or may revoke a license, upon any one (1) of the following grounds:

(a) The employment of any fraud or deception in applying for a license or in passing the examination required under this chapter.

(b) The employment of a fraud or deceit in the practice of his profession or procuring any contract in the practice of his profession by fraudulent means.

(c) A display of incompetency or recklessness in the practice of architecture resulting in a detriment to life, health, or public safety.

(d) The conviction, finding of guilt, receipt of a withheld judgment or suspended sentence in this or any other state for a felony or a misdemeanor, which misdemeanor involved a violation of the provisions of this act chapter, a willful violation of state or local building codes, or a violation of other laws relating to public health and safety and which were committed in the course of practicing architecture.

(e) Affixing of his signature to, or impressing his seal upon, any plans, drawings, specifications, or other instruments of service which have not been prepared by him, or under his responsible control, or has permitted his name to be used for the purpose of assisting any person, not a licensed architect, to evade the provisions of this chapter.

(f) Receiving of rebates, commissions, grants of money or other favors in connection with the work, without the knowledge of the party for whom he is working, or having a pecuniary interest in the performance of the contract for the work designed, planned or supervised by him without the knowledge and consent of the owner.

(g) Practicing architecture contrary to the provisions and requirements of this chapter.

(h) Violation of rules of conduct for architects which the board may adopt in accordance with guidelines published by the national council of architectural registration boards.

(i) Practicing architecture without being licensed, in violation of licensing laws of the jurisdiction in which the practice took place.

(j) Has had a license, certificate or registration to practice architecture revoked, suspended or otherwise disciplined in any jurisdiction.

(k) Failure to comply with a board order entered in a disciplinary action.

(2) Before any license shall be revoked or suspended, or the issuance thereof denied under subsection 3. of section 54-302A, Idaho Code, the holder or applicant shall be entitled to at least twenty (20) days' notice in writing of the nature of the charge against him and of the time and place of the hearing before the board for the purpose of hearing and determining such charge. The proceedings shall be governed by the provisions of chapter 52, title 67, Idaho Code. Any revocation or suspension of license shall be certified in writing by the said board and attested to with the official seal of said the board affixed thereto; and such revocation or suspension of license shall be filed in the office of the bureau of occupational licenses.

(3) Any person aggrieved by the action of the board is entitled to judicial review thereof in accordance with the provisions of chapter 52, title 67, Idaho Code.

(4) Upon the finding of the existence of grounds for discipline of any person holding a license, seeking a license, or renewing a license under the provisions of this chapter, the board may impose one (1) or more of the following penalties:

(a) Suspension of the offender's license for a term to be determined by the board;

(b) Revocation of the offender's license;

(c) Restriction of the offender's license to prohibit the offender from performing certain acts or from engaging in the practice of architecture in a particular manner for a term to be determined by the board;

(d) Refusal to renew the offender's license;

(e) Placement of the offender on probation and supervision by the board for a period to be determined by the board;

(f) Imposition of an administrative fine not to exceed two thousand dollars (\$2,000).

(5) Any person whose license has been revoked, suspended or the issuance of which has been denied by said board for cause and the order denying, revoking or suspending the same not having been revoked by a court

of competent jurisdiction, may apply for a reissuance, reinstatement or issuance of a license and the board, for reasons it may deem sufficient, may reissue, reinstate or issue the license to such person, provided, however, that it shall not take such action until the expiration of one (1) year after the date of such order.

SECTION 4. That Section 54-307, Idaho Code, be, and the same is hereby amended to read as follows:

54-307. LICENSE IS INDIVIDUAL -- FIRM NAME. (1) Every person practicing or offering to practice architecture as herein defined, and not otherwise ~~excepted~~ exempted, shall have a separate license under his own name. A license shall not be issued in the name of any firm or corporation.

(2) The holder of a license shall not maintain, in the practice of architecture, any person who does not hold a license to practice architecture in this state, unless such unlicensed person works under the responsible control of his licensed supervisor.

~~(3) All architects practicing architecture as individuals, all existing firms and all firms organized and formed henceforth, or when any change in the personnel of the firm occurs, whether by withdrawal, addition, resignation or death, or upon a change in the firm name, shall make and file with the bureau of occupational licenses, a sworn statement giving the names and addresses of all its present members and the name under which the firm is practicing architecture. Nothing in this section shall prevent the surviving members of a partnership, professional association or professional corporation, from continuing the existing firm name as long as the practice and business is continued under the existing firm name without change.~~

SECTION 5. That Section 54-308, Idaho Code, be, and the same is hereby amended to read as follows:

54-308. LICENSED ARCHITECT'S SEAL. (1) Every licensed architect shall have a seal, the impression of which must contain the name and Idaho architect license number of the architect and the words "licensed architect" and "state of Idaho," with which he shall seal all technical submissions issued from his office.

(2) The seal, signature and date may be a ~~rubber stamp~~ manually or an electronically applied seal. Whenever the seal is applied to a technical submission, the original signature of the architect and the date thereof shall be written adjacent to or across the seal. ~~Faersimile signatures shall not be utilized.~~ The signature, date and seal shall appear on all technical submissions prepared by the architect or prepared under his direction and personal supervision, and the original signature and seal may be placed on original submissions or on prints or copies of original submissions, at the option of the architect that meet the requirements set forth in subsection (4) of this section. Only the title page of reports, specifications and like documents must bear the date and the seal and signature of the architect. It is the responsibility of the architect sealing the document to provide adequate security when documents with electronic seals are distributed. Electronically produced documents distributed for informational uses, such as for bidding purposes or as working copies, may be issued with only the architect's seal if:

(a) The copy includes a notice that the original document is on file with the date and architect's signature;

(b) The words "original signed by" and "date original signed" are placed adjacent to or across the seal on the electronic document; and

(c) The storage location of the original document is identified.

The design and use of the seal shall be as required by board rule.

(3) Technical submissions involving the practice of architecture which are submitted to any public or governmental agency for the purpose of obtaining a building permit which are not clearly identified by the affixed seal of the architect and the original signature of the architect and date thereof shall be deemed unacceptable submissions for the purpose of obtaining such building permit.

(4) An architect may sign and seal technical submissions only if the technical submissions were:

- (a) Prepared by the architect;
- (b) Prepared by persons under the architect's responsible control;
- (c) Prepared by another architect licensed in Idaho if the signing and sealing architect has reviewed the other architect's work and either has coordinated the preparation of the work or has integrated the work into his or her own technical submissions; or
- (d) Prepared by another architect licensed in any state and holding the certification issued by the national council of architectural registration boards if:
 - (i) The signing and sealing architect has reviewed the other architect's work and has integrated the work into his or her own technical submissions; and
 - (ii) The other architect's technical submissions are prototypical building documents.

(5) An architect may sign and seal drawings, specifications or other work that is not required to be prepared by an architect if the architect has reviewed such work and has integrated it into his or her own technical submissions.

(6) Any licensed architect signing or sealing technical submissions not prepared by that architect but prepared under the architect's responsible control by persons not regularly employed in the office where the architect is resident shall maintain and make available to the board upon request, for at least five (5) years following such signing and sealing, adequate and complete records demonstrating the nature and extent of the architect's control over and detailed knowledge of such technical submissions throughout their preparation. Any licensed architect signing or sealing technical submissions integrating the work of another architect into the registered architect's own work as permitted under subsection (4) (c) or (d) of this section shall maintain and make available to the board upon request for at least five (5) years following such signing and sealing adequate and complete records demonstrating the nature and extent of the registered architect's review of and integration of the work of such other architect's work into his or her own technical submissions and that such review and integration met the required professional standard of care.

SECTION 6. That Section 54-316, Idaho Code, be, and the same is hereby repealed.

Approved March 19, 2014

CHAPTER 159
(H.B. No. 363)

AN ACT

RELATING TO COSMETICIANS; AMENDING SECTION 54-804, IDAHO CODE, TO PROVIDE AN ADDITIONAL INSTANCE IN WHICH THE PROVISIONS OF CHAPTER 8, TITLE 54, IDAHO CODE, DO NOT APPLY; AMENDING SECTION 54-807, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE PRACTICE OF LICENSED APPRENTICES; AND AMENDING SECTION 54-829, IDAHO CODE, TO REMOVE A REQUIREMENT THAT NO MEMBER OF THE IDAHO BOARD OF COSMETOLOGY BE AFFILIATED WITH A SCHOOL OF COSMETOLOGY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-804, Idaho Code, be, and the same is hereby amended to read as follows:

54-804. EXEMPTIONS. The provisions of this chapter shall not apply in the following instances:

(1) Persons authorized by the laws of this state to practice as a nurse or any of the healing arts, while in the proper discharge of their professional duties.

(2) Persons licensed to practice barbering or barber-styling in this state.

However, the provisions of this section shall not be construed to authorize the practice of cosmetology, except those acts that are permitted under the Idaho barber law.

(3) Persons practicing in their own home without compensation, and not practicing on the public in general.

(4) Persons practicing on a relative without compensation.

(5) The provisions of section 54-803(1), Idaho Code, shall not apply to licensed parties performing cosmetological services for persons unable by reason of ill health, medical confinement or involuntary incarceration to go to a cosmetological establishment.

(56) The provisions of section 54-803(1), Idaho Code, shall not apply to licensed electrologists or licensed estheticians practicing electrology or esthetics under the supervision of a person licensed as a chiropractor, dentist, medical doctor or podiatrist at a facility utilized by the doctor.

(67) Persons whose practice is limited to the facial application of cosmetic products to customers in connection with the sale, or attempted sale, on the premises of a retail cosmetics dealer, of cosmetic products at retail, without compensation from the customer other than the regular price of the merchandise.

SECTION 2. That Section 54-807, Idaho Code, be, and the same is hereby amended to read as follows:

54-807. PRACTICE OF APPRENTICE. No licensed apprentice may practice independently, ~~but. A licensed apprentice may do perform~~ any and all acts necessary for the training as a cosmetologist, nail technician, electrologist or esthetician providing the same is done under the in a profession within the scope of this chapter when such acts are performed in compliance with board rule, including immediate personal supervision of licensed registered cosmetologists, nail technicians, electrologists or estheticians in licensed cosmetological establishments where one (1) of said registered cosmetologists, nail technicians, electrologists or estheticians is a licensed instructor, and only one (1) such apprentice shall be employed for each two (2) licensed registered cosmetologists, nail technicians,

~~electrologists or estheticians in any cosmetological establishment the~~
apprentice by a licensed instructor. Cosmetological establishments employing apprentices shall keep a daily work record of the attendance of such apprentices and shall, upon the termination of such apprenticeship, certify to the board the total number of hours worked and the types of instruction given the apprentice.

SECTION 3. That Section 54-829, Idaho Code, be, and the same is hereby amended to read as follows:

54-829. BOARD -- QUALIFICATIONS OF MEMBERS. Members of the board shall be at least twenty-five (25) years of age, and residents of this state for at least five (5) years prior to their appointment, and they shall have been engaged in the practice of cosmetology for at least three (3) years immediately preceding their appointment, and shall be licensed cosmetologists under the provision of this act chapter. No member of the board shall be affiliated with a ~~school of cosmetology or~~ company selling cosmetic supplies while in office, and no two (2) members of the board can be graduates of the same school of cosmetology except that the qualifications for the cosmetology school representative and the electrologists shall be established by board regulations rules.

Approved March 19, 2014

CHAPTER 160
(H.B. No. 400)

AN ACT

RELATING TO HORSE RACING; AMENDING SECTION 54-2513, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE FISCAL YEAR-END BALANCE IN THE RACING COMMISSION ACCOUNT AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-2513, Idaho Code, be, and the same is hereby amended to read as follows:

54-2513. HORSE RACING -- DISTRIBUTIONS OF DEPOSITS -- BREAKAGE. (A) Each licensee conducting the pari-mutuel system for live and simulcast horse races having an average daily handle in excess of one hundred thousand dollars (\$100,000) shall distribute all sums deposited in any pool as follows:

- (1) Eighty-two percent (82%) of any win, place or show pool to the winner thereof, and eighteen percent (18%) to the licensee;
- (2) Seventy-seven and one-quarter percent (77.25%) of all two (2) horse exotic wagers including, but not limited to, daily doubles and quinellas to the winner thereof, three-quarters of one percent (.75%) to the racing commission for deposit in the racing commission account, and twenty-two percent (22%) to the licensee;
- (3) Seventy-five and one-quarter percent (75.25%) of all three (3) or more horse exotic wagers including, but not limited to, trifecta and twin-trifecta to the winner thereof, three-quarters of one percent (.75%) to the racing commission for deposit in the racing commission account, and twenty-four percent (24%) to the licensee.

(B) Each licensee conducting the pari-mutuel system for live and simulcast horse races having an average daily handle in excess of one hundred thousand dollars (\$100,000) shall retain the sums deposited in any pool as required in subsection (A) of this section, for distribution and payment based upon gross daily receipts as follows:

(1) One and one-quarter percent (1.25%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission, for deposit in the racing commission account, which is hereby created in the state regulatory fund.

(2) One-half of one percent (.50%) of gross daily receipts from horse races, separately stated, shall be paid to the Idaho state racing commission for deposit in the track distribution account, which is hereby created in the pari-mutuel distribution fund, for further distribution to certain Idaho horse race tracks, defined as follows:

a. Recipient horse racing tracks shall be those which, during the race meet year of distribution, have a total race handle from both live races and simulcast races of less than five million dollars (\$5,000,000);

b. Distributions to recipient horse racing tracks shall be weighted proportionately on the number of days raced during the year of distribution.

All moneys in the track distribution account are hereby continuously appropriated to the commission for payment as required by this section. Payments to horse racing tracks shall be made annually but not later than December 15.

(3) One-half of one percent (.50%) of gross daily receipts from horse races, separately stated shall be paid by the licensee to the commission for deposit in the breed distribution account, which is hereby created in the pari-mutuel distribution fund, for payment by the commission in proportion to the handle generated by each horse breed, to lawfully constituted representatives of each horse breed, to benefit owners and/or breeders of Idaho bred racing thoroughbreds, racing quarter horses, racing Appaloosas, racing paints and racing Arabians, subject to the approval of the commission. Moneys in the breed distribution account on December 31 of each year which have not been distributed by the commission shall be paid to the public school income fund.

All moneys in the breed distribution account are hereby continuously appropriated to the commission for payment as required by this section. Payments to representatives shall be made quarterly.

(4) From the balance of gross daily receipts remaining with the licensee after the distributions required in subsection (B) (1), (2) and (3) of this section from horse races, the following amounts shall be paid or retained:

a. From the first \$20,000 of gross daily receipts, the licensee shall retain the entire amount;

b. From the next \$10,000 of gross daily receipts (gross daily receipts between \$20,000 and \$30,000), the public school income fund and the equine education account shall each receive one-eighth of one percent (.125%), and the licensee shall retain the balance;

c. From the next \$10,000 of gross daily receipts (gross daily receipts between \$30,000 and \$40,000), the public school income fund and the equine education account shall each receive sixty-two and one-half hundredths percent (.625%), and the licensee shall retain the balance;

d. From all amounts of over \$40,000 of gross daily receipts, the public school income fund and the equine education account shall each receive one and one-eighth percent (1.125%), and the licensee shall retain the balance.

The public schools' and the equine education account's share shall be paid by the licensee to the racing commission for deposit in the public school income fund or the equine education account as appropriate. The licensee's percentage shall be retained by the licensee.

(C) Each licensee conducting the pari-mutuel system for live and simulcast horse races having an average daily handle of one hundred thousand dol-

lars (\$100,000) or less shall distribute all sums deposited in any pool as follows:

(1) Seventy-seven percent (77%) of any win, place or show pool to the winner thereof, and twenty-three percent (23%) to the licensee;

(2) Seventy-six and one-quarter percent (76.25%) of all other pools to the winner thereof, three-quarters of one percent (.75%) to the racing commission for deposit in the racing account, and twenty-three percent (23%) to the licensee.

(D) Each licensee conducting the pari-mutuel system for live and simulcast horse races shall retain twenty-three percent (23%) of all sums deposited in any pool, for distribution and payment based upon gross daily receipts as follows:

(1) One and one-quarter percent (1.25%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission, for deposit in the racing commission account.

(2) One-half of one percent (.50%) of gross daily receipts from horse races, separately stated, shall be paid to the Idaho state racing commission for deposit in the track distribution account, for further distribution to certain Idaho horse race tracks, defined as follows:

a. Recipient horse racing tracks shall be those which, during the race meet year of distribution, have a total race handle from both live races and simulcast races of less than five million dollars (\$5,000,000);

b. Distributions to recipient horse racing tracks shall be weighted proportionately on the number of days raced during the year of distribution.

All moneys in the track distribution account are hereby continuously appropriated to the commission for payment as required by this section. Payments to horse racing tracks shall be made annually but not later than December 15.

(3) One-half of one percent (.50%) of gross daily receipts from horse races, separately stated shall be paid by the licensee to the commission for deposit in the breed distribution account, for payment by the commission in proportion to the handle generated by each horse breed, to lawfully constituted representatives of each horse breed, to benefit owners and/or breeders of Idaho bred racing thoroughbreds, racing quarter horses, racing Appaloosas, racing paints and racing Arabians, subject to the approval of the commission. Moneys in the breed distribution account on December 31 of each year which have not been distributed by the commission shall be paid to the public school income fund. All moneys in the breed distribution account are hereby continuously appropriated to the commission for payment as required by this section. Payments to representatives shall be made quarterly.

(4) Twenty and three-quarters percent (20.75%) of gross daily receipts from horse races shall be paid or retained as follows:

a. From the first \$20,000 of gross daily receipts, the licensee shall retain twenty and three-quarters percent (20.75%);

b. From the next \$10,000 of gross daily receipts (gross daily receipts between \$20,000 and \$30,000), the public school income fund and the equine education account shall each receive one-eighth of one percent (.125%), and the licensee shall retain twenty and one-half percent (20.50%);

c. From the next \$10,000 of gross daily receipts (gross daily receipts between \$30,000 and \$40,000), the public school income fund and the equine education account shall each receive sixty-two and one-half hundredths percent (.625%), and the licensee shall retain nineteen and one-half percent (19.50%);

d. From all amounts of over \$40,000 of gross daily receipts, the public school income fund and the equine education account shall

each receive one and one-eighth percent (1.125%), and the licensee shall retain eighteen and one-half percent (18.50%).

The public schools' share and the equine education account's share shall be paid by the licensee to the racing commission for deposit in the public school income fund or the equine education account as appropriate. The licensee's percentage shall be retained by the licensee.

(E) Each licensee may retain the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of ten (10), known as breakage, and the total amount of unclaimed tickets at the termination of the time allowed by rule of the commission.

(F) If the fiscal year-end balance in the racing commission account exceeds six hundred thousand dollars (\$4600,000), the excess shall be transferred by the office of the state controller to the pari-mutuel distribution fund, which is hereby created, for further distribution as follows:

(1) Sixty percent (60%) shall be deposited in the Idaho horse owner/breeder award account, which is hereby created in the pari-mutuel distribution fund, and shall be distributed by the racing commission annually, but not later than December 15 of each year as follows:

a. Fifty percent (50%) to the breeders of Idaho bred winners based on the number of live races by each breed for the current calendar year; and

b. Fifty percent (50%) in equal amounts to owners of Idaho bred horse race winners.

c. All moneys in the Idaho horse owner/breeder award account are hereby continuously appropriated to the commission for payment as required in this section.

(2) Forty percent (40%) shall be deposited in the track purse enhancement account, which is hereby created, and paid to all Idaho licensed horse racetracks for the purpose of purse enhancement based on the number of live race dates held the preceding calendar year. Track purse enhancement moneys shall be disbursed no later than thirty (30) days after Idaho state racing commission approval of live race meet license applications for the forthcoming calendar year. All moneys in the track purse enhancement account are hereby continuously appropriated to the commission for payment as required by this section.

Approved March 19, 2014

CHAPTER 161
(H.B. No. 438)

AN ACT

RELATING TO MIDWIFERY; AMENDING SECTION 54-5502, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 54-5505, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE BOARD OF MIDWIFERY'S RULEMAKING RESPONSIBILITIES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 5, CHAPTER 65, LAWS OF 2009, TO REVISE A SUNSET DATE; AND AMENDING SECTION 37, CHAPTER 79, LAWS OF 2010, TO REVISE A SUNSET DATE.

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

SECTION 1. That Section 54-5502, Idaho Code, be, and the same is hereby amended to read as follows:

54-5502. DEFINITIONS. As used in this chapter:

(1) "Board" means the Idaho state board of midwifery.

(2) "Bureau" means the Idaho state bureau of occupational licenses.

(3) "Certified professional midwife" or "CPM" means a person who is certified by the North American registry of midwives or any successor organization.

(4) "Client" means a woman under the care of a licensed midwife, as well as her fetus and newborn child.

(5) "Estimated due date" means the estimated date of delivery with a known date of conception, known date of last menstrual period or first trimester ultrasound.

(6) "Idaho midwifery council" or "IMC" means the professional organization representing midwives in Idaho.

(67) "Idahoans for midwives" or "IFM" means the Idaho consumer organization that promotes and supports midwifery care in Idaho.

(8) "Licensed health care provider" means a physician or physician assistant or an advanced practice registered nurse.

(79) "Licensed midwife" means a person who holds a current license issued by the board pursuant to the provisions of this chapter to engage in the practice of midwifery, who shall be designated "L.M."

(810) "Midwifery education accreditation council" or "MEAC" means the organization established in 1991 and recognized by the U.S. department of education as an accrediting agency for midwifery education programs and institutions.

(911) "National association of certified professional midwives" or "NACPM" means the national organization for certified professional midwives.

(102) "NACPM essential documents" means the documents adopted by NACPM that identify the nature of and standards of practice for responsible midwifery practice.

(113) "North American registry of midwives" or "NARM" means the international certification agency that establishes and administers certification for the CPM credential.

(124) "Practice of midwifery" means providing maternity care for women and their newborns during the antepartum, intrapartum and postpartum periods. The postpartum period for both maternal and newborn care may not exceed six (6) weeks from the date of delivery.

SECTION 2. That Section 54-5505, Idaho Code, be, and the same is hereby amended to read as follows:

54-5505. RULEMAKING. (1) The rules adopted by the board shall:

(a) Allow a midwife to obtain and administer, during the practice of midwifery, the following:

(i) Oxygen;

(ii) Oxytocin and cytotec as a postpartum antihemorrhagic agents;

(iii) Injectable local anesthetic for the repair of lacerations that are no more extensive than second degree;

(iv) Antibiotics to the mother for group b streptococcus prophylaxis consistent with guidelines of the United States centers for disease control and prevention;

(v) Epinephrine to the mother administered via a metered dose auto-injector;

(vi) Intravenous fluids for stabilization of the woman;

(vii) Rho(d) immune globulin;

(viii) Vitamin K; and

(ix) Eye prophylactics to the baby.

(b) Prohibit the use of other legend drugs, except those of a similar nature and character as determined by the board to be consistent with the practice of midwifery; provided that, at least one hundred twenty (120) days' advance notice of the proposal to allow the use of such drugs

is given to the board of pharmacy and the board of medicine and neither board objects to the addition of such drugs to the midwifery formulary;

(c) Define a protocol for use by licensed midwives of drugs approved in paragraphs (a) and (b) of this subsection that shall include methods of obtaining, storing and disposing of such drugs and an indication for use, dosage, route of administration and duration of treatment;

(d) Define a protocol for medical waste disposal; and

(e) Establish scope and practice standards for antepartum, intrapartum, postpartum and newborn care that shall, at a minimum:

(i) Prohibit a licensed midwife from providing care for a client with a history of disorders, diagnoses, conditions or symptoms that include:

1. Placental abnormality;

2. Multiple gestation, except that midwives may provide antepartum care that is supplementary to the medical care of the physician overseeing the pregnancy, so long as it does not interfere with the physician's recommended schedule of care;

3. Noncephalic presentation at the onset of labor or rupture of membranes, whichever occurs first;

4. Birth under thirty-seven and zero-sevenths (37 $\frac{0}{7}$) weeks and after beyond forty-two and zero-sevenths (42 $\frac{0}{7}$) completed weeks¹ gestational age;

5. A history of more than one (1) prior cesarean section, a cesarean section within eighteen (18) months of the current delivery estimated due date or any cesarean section that was surgically closed with a classical or vertical uterine incision;

6. ~~Rh or other blood group or~~ Platelet sensitization, hematological or coagulation disorders;

7. A body mass index of forty (40.0) or higher at the time of conception;

8. Prior chemotherapy and/or radiation treatment for a malignancy;

9. Previous pre-eclampsia resulting in premature delivery;

10. Cervical insufficiency; ~~or~~

11. HIV positive status; ~~or~~

12. Opiate use that places the infant at risk of neonatal abstinence syndrome.

(ii) Prohibit a licensed midwife from providing care for a client with a history of the following disorders, diagnoses, conditions or symptoms unless such disorders, diagnoses, conditions or symptoms are being treated, monitored or managed by a physician licensed pursuant to chapter 18, title 54, Idaho Code licensed health care provider:

1. Diabetes;

2. Thyroid disease;

3. Epilepsy;

4. Hypertension;

5. Cardiac disease;

6. Pulmonary disease;

7. Renal disease;

8. Gastrointestinal disorders;

9. Previous major surgery of the pulmonary system, cardiovascular system, urinary tract or gastrointestinal tract;

10. Abnormal cervical cytology;

11. Sleep apnea;

12. Previous bariatric surgery;

13. Hepatitis; ~~or~~

14. History of illegal drug use or excessive prescription drug use; or

15. Rh or other blood group disorders and a physician determines the pregnancy can safely be attended by a midwife.

(iii) Require a licensed midwife to recommend that a client see a physician licensed under chapter 18, title 54, Idaho Code, or under an equivalent provision of the law of a state bordering Idaho and to document and maintain a record as required by section 54-5511, Idaho Code, if such client has a history of disorders, diagnoses, conditions or symptoms that include:

1. Previous complicated pregnancy;
2. Previous cesarean section;
3. Previous pregnancy loss in second or third trimester;
4. Previous spontaneous premature labor;
5. Previous pre-term rupture of membranes;
6. Previous pre-eclampsia;
7. Previous hypertensive disease of pregnancy;
8. Parvo;
9. Toxo;
10. CMV;
11. HSV;
12. Previous maternal/newborn group b streptococcus infection;
13. A body mass index of at least thirty-five (35.0) but less than forty (40.0) at the time of conception;
14. Underlying family genetic disorders with potential for transmission; or
15. Psychosocial situations that may complicate pregnancy.

(iv) Require that a licensed midwife shall facilitate the immediate transfer to a hospital for emergency care for disorders, diagnoses, conditions or symptoms that include:

1. Maternal fever in labor;
2. Suggestion of fetal jeopardy such as bleeding or meconium or abnormal fetal heart tones;
3. Noncephalic presentation at the onset of labor or rupture of membranes, whichever occurs first, unless imminent delivery is safer than transfer;
4. Second stage labor after two (2) hours of initiation of pushing when the mother has had a previous cesarean section;
5. Current spontaneous premature labor;
6. Current pre-term premature rupture of membranes;
7. Current pre-eclampsia;
8. Current hypertensive disease of pregnancy;
9. Continuous uncontrolled bleeding;
10. Bleeding which necessitates the administration of more than two (2) doses of oxytocin or other antihemorrhagic agent;
11. Delivery injuries to the bladder or bowel;
12. Grand mal seizure;
13. Uncontrolled vomiting;
14. Coughing or vomiting of blood;
15. Severe chest pain; or
16. Sudden onset of shortness of breath and associated labored breathing.

A transfer of care shall be accompanied by the client's medical record, the licensed midwife's assessment of the client's current condition and a description of the care provided by the licensed midwife prior to transfer;

(v) Establish a written plan for the emergency transfer and transport required in subparagraph (iv) of this paragraph and for notifying the hospital to which a client will be transferred in the case of an emergency. If a client is transferred in an emergency, the licensed midwife shall notify the hospital when the transfer is initiated and accompany the client to the hospital if feasible, or communicate by telephone with the hospital if unable to be present personally, and shall provide the client's medical record. The record shall include the client's name, address, list of diagnosed medical conditions, list of prescription or over the counter medications regularly taken, history of previous allergic reactions to medications, if feasible the client's current medical condition and description of the care provided by the midwife and next of kin contact information. A midwife who deems it necessary to transfer or terminate care pursuant to this section and any rules promulgated under this section or for any other reason shall transfer or terminate care and shall not be regarded as having abandoned care or wrongfully terminated services. Before nonemergent discontinuing of services, the midwife shall notify the client in writing, provide the client with names of licensed physicians and contact information for the nearest hospital emergency room and offer to provide copies of medical records regardless of whether copying costs have been paid by the client.

(f) Establish and operate a system of peer review for licensed midwives that shall include, but not be limited to, the appropriateness, quality, utilization and the ethical performance of midwifery care.

(2) The rules adopted by the board may not:

(a) Require a licensed midwife to have a nursing degree or diploma;

(b) Except as a condition imposed by disciplinary proceedings by the board, require a licensed midwife to practice midwifery under the supervision of another health care provider;

(c) Except as a condition imposed in disciplinary proceedings by the board, require a licensed midwife to enter into an agreement, written or otherwise, with another health care provider;

(d) Limit the location where a licensed midwife may practice midwifery;

(e) Allow a licensed midwife to use vacuum extraction or forceps as an aid in the delivery of a newborn;

(f) Grant a licensed midwife prescriptive privilege;

(g) Allow a licensed midwife to perform abortions.

SECTION 3. That Section 5, Chapter 65, Laws of 2009, be, and the same is hereby amended to read as follows:

SECTION 5. The provisions of Section 1 of this act shall be null, void and of no force and effect on and after July 1, 2014~~24~~.

SECTION 4. That Section 37, Chapter 79, Laws of 2010, be, and the same is hereby amended to read as follows:

SECTION 37. The provisions of Sections 20 and ~~21~~ through 33 of this act shall be null, void and of no force and effect on and after July 1, 2014~~24~~.

Approved March 19, 2014

CHAPTER 162
(H.B. No. 443)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 31-4306, IDAHO CODE, TO REVISE THE PERIOD OF TIME WITHIN WHICH A CERTAIN DECLARATION IS REQUIRED TO BE FILED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-313, IDAHO CODE, TO PROVIDE THAT THE STATE BOARD OF EDUCATION HAS CERTAIN NOTICE RESPONSIBILITIES, TO PROVIDE THAT SCHOOL DISTRICTS HAVE CERTAIN FILING RESPONSIBILITIES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-1404, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN NOMINATING PETITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-1413, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PROCEDURES FOR CERTAIN POLITICAL SUBDIVISION ELECTIONS TO MODIFY VOTING PROCEDURES; AMENDING SECTION 50-410, IDAHO CODE, TO PROVIDE THAT A PERSON SHALL NOT BE PERMITTED TO FILE A DECLARATION OF CANDIDACY FOR MORE THAN ONE OFFICE IN ANY CITY ELECTION AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 50-412, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CANVASSING VOTES AND DETERMINING RESULTS OF ELECTION.

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

SECTION 1. That Section 31-4306, Idaho Code, be, and the same is hereby amended to read as follows:

31-4306. ELECTION OF DIRECTORS. (1) An election of directors shall be held in each district on the Tuesday succeeding the first Monday of November of each odd-numbered year. Such election shall be held in conformity with title 34, Idaho Code. Before the notice of election is given, the board shall divide the district into subdivisions as nearly equal in population as possible to be designated as director's subdistrict 1, 2 and 3, or director's subdistrict 1, 2, 3, 4 and 5, depending upon the number of subdistricts in the district. Each nominating petition shall state the subdistrict for which the nominee is nominated.

(2) In any election for directors if, after the expiration of the date for filing written nominations for the office of director, it appears that only one (1) qualified candidate has been nominated for each position to be filled and if no declaration of intent has been filed as provided in subsection (3) of this section, it shall not be necessary to hold an election, and the board of directors, shall, no later than seven (7) days before the scheduled date of the election, declare such candidate elected as director, and the secretary of the recreation district board shall immediately make and deliver to such person a certificate of election.

(3) No write-in vote for recreation district director shall be counted unless a declaration of intent has been filed indicating that the person desires the office and is legally qualified to assume the duties of recreation district director if elected. The declaration of intent shall be filed with the recreation district board secretary not later than ~~twentyfourty~~ twentyfourty-five (245) days before the day of election.

SECTION 2. That Section 33-313, Idaho Code, be, and the same is hereby amended to read as follows:

33-313. TRUSTEE ZONES. (1) Each elementary school district shall be divided into three (3) trustee zones and each other school district shall be divided into no fewer than five (5) nor more than nine (9) trustee zones according to the provisions of section 33-501, Idaho Code. A school district that has had a change in its district boundaries because of consolidation

on and after January 1, 2008, shall divide trustee zones so that each former district in the new district shall not be split into different trustee zones, unless the provisions of subsection (2) of this section cannot be satisfied.

(2) Any proposal to define the boundaries of the several trustee zones in each such school district shall include the determination, where appropriate, of the number of trustee zones in such district, and the date of expiration of the term of office for each trustee. The boundaries of the several trustee zones in each such school district shall be defined and drawn so that, as reasonably as may be, each such zone shall have approximately the same population.

(3) Whenever the area of any district has been enlarged by the annexation of all or any part of another district, or by the correction of errors in the legal description of school district boundaries, any such additional territory shall be included in the trustee zone or zones contiguous to such additional territory until such time as the trustee zones may be redefined and changed. Trustee zones may be redefined and changed, but not more than once every five (5) years, in the manner hereinafter provided.

(4) A proposal to redefine and change trustee zones of any district may be initiated by its board of trustees and shall be initiated by its board of trustees at the first meeting following the report of the decennial census, and submitted to the state board of education, or by petition signed by not less than fifty (50) school electors residing in the district, and presented to the board of trustees of the district. Within one hundred twenty (120) days following the decennial census or the receipt of a petition to redefine and change the trustee zones of a district the board of trustees shall prepare a proposal for a change which will equalize the population in each zone in the district and shall submit the proposal to the state board of education. Any proposal shall include a legal description of each trustee zone as the same would appear as proposed, a map of the district showing how each trustee zone would then appear, and the approximate population each would then have, should the proposal to change any trustee zones become effective.

(5) Within sixty (60) days after it has received the said proposal the state board of education may approve or disapprove the proposal to redefine and change trustee zones and shall give notice thereof in writing to the board of trustees of the district wherein the change is proposed. Should the state board of education disapprove a proposal, the board of trustees shall, within forty-five (45) days, submit a revised proposal to the state board of education. Should the state board of education approve the proposal, it shall notify the school district, the trustee zones shall be changed in accordance with the proposal and a copy of the legal description of each trustee zone and map of the district showing how each trustee zone will appear shall be filed by the school district with the county clerk.

(6) At the next regular meeting of the board of trustees following the approval of the proposal the board shall appoint from its membership a trustee for each new zone to serve as trustee until that incumbent trustee's term expires. If the current board membership includes two (2) incumbent trustees from the same new trustee zone, the board will select the incumbent trustee with the most seniority as a trustee to serve the remainder of his term. If both incumbent trustees have equal seniority, the board will choose one (1) of the trustees by the drawing of lots. If there is a trustee vacancy in any of the new zones, the board of trustees shall appoint from the patrons resident in that new trustee zone, a person from that zone to serve as trustee until the next annual meeting. At the annual election a trustee shall be elected to serve during the term specified in the election for the zone. The elected trustee shall assume office at the annual meeting of the school district next following the election.

SECTION 3. That Section 34-1404, Idaho Code, be, and the same is hereby amended to read as follows:

34-1404. DECLARATION OF CANDIDACY. Candidates for election in any political subdivision shall be nominated by nominating petitions, each of which shall bear the name of the nominee, the office for which the nomination is made, the term for which nomination is made, bear the signature of not less than five (5) electors of the candidate's specific zone or district of the political subdivision, and be filed with the clerk of the political subdivision. The form of the nominating petition shall be as provided by the county clerk and shall be uniform for all political subdivisions. For an election to be held on the third Tuesday in May, in even-numbered years, the nomination petition shall be filed during the period specified in section 34-704, Idaho Code. The clerk of the political subdivision shall verify the qualifications of the nominees and shall, no more than seven (7) days after the close of filing, certify the nominees and ~~any special questions placed by action of the governing board to be placed on the ballot~~ of the political subdivision. For an election to be held on the first Tuesday after the first Monday of November, in even-numbered years, the nomination shall be filed on or before September 1. The clerk of the political subdivision shall verify the qualifications of the nominees, and shall, not later than seven (7) days after the close of filing, certify the nominees and ~~any special questions placed by action of the governing board to be placed on the ballot~~ of the political subdivisions. For all other elections, the nomination shall be filed not later than 5:00 p.m. on the ninth Friday preceding the election for which the nomination is made. The clerk of the political subdivision shall verify the qualifications of the nominee, and shall, not more than seven (7) days following the filing, certify the nominees and ~~any special questions, placed by action of the governing board of the political subdivisions, to be placed on the ballot of the political subdivision.~~

SECTION 4. That Section 34-1413, Idaho Code, be, and the same is hereby amended to read as follows:

34-1413. PROCEDURES FOR CERTAIN POLITICAL SUBDIVISION ELECTIONS TO MODIFY VOTING PROCEDURES. Any county that has ~~a political subdivision in which there is more than one (1) county contained in the political subdivision boundaries and that wishes to modify voting procedures~~ for a political subdivision election shall submit an election plan to the secretary of state for approval for the modified voting procedures to be effective at least forty (40) calendar days prior to an election. The secretary of state shall notify the political subdivision of its approval, disapproval and, if it is disapproved, what remedial measures may be taken that would allow for approval of the voting plan.

SECTION 5. That Section 50-410, Idaho Code, be, and the same is hereby amended to read as follows:

50-410. TIME AND MANNER OF FILING DECLARATIONS. (1) All declarations of candidacy for elective city offices shall be filed with the clerk of the respective city wherein the elections are to be held, not earlier than 8:00 a.m. on the eleventh Monday nor later than 5:00 p.m. on the ninth Friday, immediately preceding election day. Before a candidate files a petition of candidacy with the city clerk, the petition signatures shall be verified by the county clerk in the manner described in section 34-1807, Idaho Code, except that the city clerk shall stand in place of the secretary of state. Before any declaration of candidacy and filing fee or petition of candidacy mentioned in section 50-407, Idaho Code, can be filed, the city clerk shall ascertain that it conforms to the provisions of chapter 4, title 50, Idaho Code. The city clerk shall not accept any declarations of candidacy after 5:00 p.m. on the ninth Friday immediately preceding election day. Write-in

candidates shall be governed by section 34-702A, Idaho Code, but shall file the declarations required in that section with the city clerk.

(2) A person shall not be permitted to file a declaration of candidacy for more than one (1) office in any city election.

SECTION 6. That Section 50-412, Idaho Code, be, and the same is hereby amended to read as follows:

50-412. CANVASSING VOTES -- DETERMINING RESULTS OF ELECTION. The county commissioners, within ten (10) days following any election, shall meet for the purpose of canvassing the results of the election. Upon ~~acceptance~~ receipt of tabulation of votes prepared by the election judges and clerks, and the canvass as herein provided, the results of both shall be entered in the minutes of city council proceedings and ~~prelaimed as final~~. Results of election shall be determined as follows: in the case of a single office to be filled, the candidate with the highest number of votes shall be declared elected; in the case where more than one (1) office is to be filled, that number of candidates receiving the highest number of votes, equal to the number of offices to be filled, shall be declared elected.

Approved March 19, 2014

CHAPTER 163
(H.B. No. 446)

AN ACT

RELATING TO DIVORCE ACTIONS; AMENDING SECTION 32-717D, IDAHO CODE, TO GRANT THE COURT THE DISCRETION TO AWARD ATTORNEY'S FEES AND COSTS IN CERTAIN CIRCUMSTANCES.

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

SECTION 1. That Section 32-717D, Idaho Code, be, and the same is hereby amended to read as follows:

32-717D. PARENTING COORDINATOR. (1) Provided that a court has entered a judgment or an order establishing child custody in a case, the court may order the appointment of a parenting coordinator to perform such duties as authorized by the court, consistent with any controlling judgment or order of a court relating to the child or children of the parties, and as set forth within the order of appointment. The court shall direct the parenting coordinator to provide a status report to the court at a time and in a manner as determined by the court. Provided however, that the court shall require the parenting coordinator to provide a minimum of one (1) status report to the court at least once every six (6) months. At any time during the period of appointment, the court, on its own initiative, or upon request of the parenting coordinator or either party, may hold a status conference to review the continued appointment of the coordinator and/or the status of the case.

(2) Qualification, selection, appointment, termination of appointment, and prescribed duties and responsibilities of a parenting coordinator shall be based upon standards and criteria as adopted by the Idaho supreme court. Provided however, that standards and criteria for qualification and selection of a parenting coordinator, as adopted by the Idaho supreme court, shall not apply to a parenting coordinator selected and agreed to by the parties. In addition, as a condition of any appointment, a parenting coordinator shall:

(a) Be neutral to the dispute and to the parties;

(b) Be either selected pursuant to agreement of the parties or appointed by the court; and

(c) Prior to any appointment, and at their own cost, have submitted to a criminal history check through any law enforcement office in the state providing such service. The criminal history check shall include a statewide criminal identification bureau, the federal bureau of investigation criminal history check, the national crime information center and the statewide sex offender register. A record of all background checks shall be maintained in the office of the supreme court of the state of Idaho with a copy going to the applicant and shall be available for review by the court considering a parenting coordinator appointment prior to an appointment.

(3) In addition to those duties as authorized by the court pursuant to the order of appointment, the responsibilities of a parenting coordinator shall include collaborative dispute resolution in parenting. The parenting coordinator shall act to empower the parties in resuming parenting controls and decision-making, and minimize the degree of conflict between the parties for the best interests of the children.

(4) The court shall allocate the fees and costs of the parenting coordinator between the parties and may enter an order against either or both parties for the reasonable costs, fees and disbursements of the parenting coordinator. Any dispute regarding payment of the fees and costs of the parenting coordinator shall be subject to review by the court upon request of the parenting coordinator or either party.

(5) The court may award attorney's fees and costs to the prevailing party on a motion to set aside or modify the decision of a parenting coordinator.

Approved March 19, 2014

CHAPTER 164
(H.B. No. 447)

AN ACT

RELATING TO THE PROTECTION OF PERSONS UNDER DISABILITY; AMENDING SECTION 15-5-209, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN DUTIES OF A GUARDIAN OF A MINOR AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 15-5-312, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN REPORTING REQUIREMENTS OF A GUARDIAN OF AN INCAPACITATED PERSON AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 15-5-314, IDAHO CODE, TO PROVIDE FOR THE COLLECTION, PAYMENT AND DEPOSIT OF CERTAIN MONEYS; REPEALING SECTION 15-5-418, IDAHO CODE, RELATING TO INVENTORY AND RECORDS; AMENDING SECTION 15-5-419, IDAHO CODE, TO REMOVE PROVISIONS RELATING TO ACCOUNTS AND REPORTS OF CERTAIN CONSERVATORS AND GUARDIANS, TO REVISE AND ESTABLISH PROVISIONS RELATING TO REPORTING REQUIREMENTS FOR CONSERVATORS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-3201G, IDAHO CODE, TO RENAME A CERTAIN FUND, TO PROVIDE THAT THE GUARDIANSHIP AND CONSERVATORSHIP PROJECT FUND SHALL CONSIST OF CERTAIN MONEYS AND TO REMOVE ARCHAIC LANGUAGE; AND AMENDING SECTION 66-405, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN DUTIES OF GUARDIANS AND CONSERVATORS AND TO GRANT THE COURT THE AUTHORITY TO REQUIRE A CONSERVATOR TO SUBMIT TO A PHYSICAL CHECK OF THE ESTATE IN HIS CONTROL.

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

SECTION 1. That Section 15-5-209, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-209. POWERS AND DUTIES OF GUARDIAN OF MINOR. A guardian of a minor has the powers and responsibilities of a parent who has not been deprived of custody of his minor and unemancipated child, except that a guardian is not legally obligated to provide from his own funds for the ward and is not liable to third persons by reason of the parental relationship for acts of the ward. In particular, and without qualifying the foregoing, a guardian has the following powers and duties:

(a1) He must take reasonable care of his ward's personal effects and commence protective proceedings if necessary to protect other property of the ward.

(b2) He may receive money payable for the support of the ward to the ward's parent, guardian or custodian under the terms of any statutory benefit or insurance system, or any private contract, devise, trust, conservatorship or custodianship. He also may receive money or property of the ward paid or delivered by virtue of section 15-5-103, ~~of this code Idaho Code~~. Any sums so received shall be applied to the ward's current needs for support, care and education. He must exercise due care to conserve any excess for the ward's future needs unless a conservator has been appointed for the estate of the ward, in which case the excess shall be paid over at least annually to the conservator. Sums so received by the guardian are not to be used for compensation for his services except as approved by order of the court or as determined by a duly appointed conservator other than the guardian. A guardian may institute proceedings to compel the performance by any person of a duty to support the ward or to pay sums for the welfare of the ward.

(e3) The guardian is empowered to facilitate the ward's education, social, or other activities and to authorize medical or other professional care, treatment, or advice. A guardian is not liable by reason of this consent for injury to the ward resulting from the negligence or acts of third persons unless it would have been illegal for a parent to have consented. A guardian may consent to the marriage or adoption of his ward.

(d4) ~~A guardian must shall report the condition of his to the court at least annually on the status of the ward and of the ward's estate which has been subject to his possession or control, as ordered by court on petition of any person interested in the minor's welfare or as required by court rule.~~ All reports shall be under oath or affirmation and shall comply with the Idaho supreme court rules.

SECTION 2. That Section 15-5-312, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-312. GENERAL POWERS AND DUTIES OF GUARDIAN. (1) A guardian of an incapacitated person has the powers and responsibilities of a parent who has not been deprived of custody of his unemancipated minor child except that a guardian is not legally obligated to provide from his own funds for the ward and is not liable to third persons for acts of the ward, and except as hereinafter limited. In particular, and without qualifying the foregoing, a guardian has the following powers and duties, except as modified by order of the court when the guardianship is limited:

(a) To the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the ward, he is entitled to custody of the person of his ward and may establish the ward's place of abode within or without this state. The guardian shall take reasonable measures to ensure that a convicted felon does not reside with, care for or visit the ward without court approval.

(b) If entitled to custody of his ward he shall make provision for the care, comfort and maintenance of his ward, and, whenever appropriate, arrange for his training and education. Without regard to custodial rights of the ward's person, he shall take reasonable care of his ward's

clothing, furniture, vehicles and other personal effects and commence protective proceedings if other property of his ward is in need of protection.

(c) A guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment or service. A guardian shall be automatically entitled to any information governed by the health insurance portability and accountability act of 1996 (HIPAA), 42 U.S.C. 1320d and 45 CFR 160 through 164, and the appointment of such guardian shall be deemed to grant such release authority.

(d) If no conservator for the estate of the ward has been appointed, the guardian may institute proceedings to appoint a conservator. In no circumstances shall the guardian exercise any of the powers of a conservator.

(e) A guardian shall be required to report ~~as provided in section 15-5-419, Idaho Code~~ to the court at least annually on the status of the ward. All reports shall be under oath or affirmation and shall comply with Idaho supreme court rules.

(f) If a conservator has been appointed, all of the ward's estate received by the guardian in excess of those funds expended to meet current expenses for support, care, and education of the ward must be paid to the conservator for management ~~as provided in this code pursuant to this chapter~~, and the guardian must account to the conservator for funds expended.

(2) Any guardian of one for whom a conservator also has been appointed shall control the custody and care of the ward, and is entitled to receive reasonable sums for his services and for room and board furnished to the ward as agreed upon between him and the conservator, provided the amounts agreed upon are reasonable under the circumstances. The guardian may request the conservator to expend the ward's estate by payment to third persons or institutions for the ward's care and maintenance.

(3) A guardian may delegate certain of his responsibilities for decisions affecting the ward's well-being to the ward when reasonable under all of the circumstances.

SECTION 3. That Section 15-5-314, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-314. COMPENSATION AND EXPENSES. (1) If not otherwise compensated for services rendered or expenses incurred, any visitor, guardian ad litem, physician, guardian, or temporary guardian appointed in a protective proceeding is entitled to reasonable compensation from the estate for services rendered and expenses incurred in such status, including for services rendered and expenses incurred prior to the actual appointment of said guardian or temporary guardian which were reasonably related to the proceedings. If any person brings or defends any guardianship proceeding in good faith, whether successful or not, he or she is entitled to receive from the estate his or her necessary expenses and disbursements including reasonable attorney's fees incurred in such proceeding. If the estate is inadequate to bear any of the reasonable compensation, fees, and/or costs referenced in this section, the court may apportion the reasonable compensation, fees, and/or costs to any party, or among the parties, as the court deems reasonable.

(2) If court visitor services are provided by court personnel, any moneys recovered shall be collected through the clerk of the district court of the county in which the appointment was made and the clerk shall pay the moneys to the state treasurer for deposit in the guardianship and conservatorship project fund established by section 31-3201G, Idaho Code.

SECTION 4. That Section 15-5-418, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 15-5-419, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-419. ACCOUNTS AND REPORTS REPORTING REQUIREMENTS FOR CONSERVATORS. (a) Every conservator or guardian shall submit a written annual report to the court concerning the status of the ward and of the ward's estate that has been under the guardian's or conservator's control. The guardian or conservator shall also be required to provide copies of the report to all persons listed by the court as having an interest in receiving copies of the report. The court may order more frequent reports by its own ruling or pursuant to a petition of any person interested in the ward's welfare. Every conservator must account annually, or as otherwise directed by the court, and upon his resignation or removal. On termination of the protected person's minority or disability, a conservator shall account to the court and shall account to the former protected person or his personal representative. Subject to appeal or vacation within the time permitted, an order, made upon notice and hearing, allowing an intermediate account of a conservator, adjudicates as to his liabilities concerning the matters considered in connection therewith; and an order, made upon notice and hearing, allowing a final account adjudicates as to all previously unsettled liabilities of the conservator to the protected person or his successors relating to the conservatorship. In connection with any account, the file with the court an inventory within ninety (90) days of appointment, an accounting at least annually, and a final accounting at the termination of the appointment of the conservator. All inventories and accountings shall be under oath or affirmation and shall comply with the Idaho supreme court rules. The court may require a conservator to submit to a physical check of the estate in his control, to be made in any manner the court may specify.

(b) ~~Except as otherwise provided in subsection (c) of this section, every report submitted by a conservator shall cover a specific time period, which period shall be stated explicitly in the report. The report shall cover all of the estate of the protected person which is under the control of the conservator. Supporting documentation for items in the report shall either accompany such report or, if such supporting documentation is voluminous, or expensive to provide, or contains sensitive or private information, or another good reason exists for not providing such supporting documentation with the report, the report shall state the reason that the supporting documentation is not provided and that the supporting documentation is held by, or is reasonably available to, the conservator and will be produced upon request. The report shall contain, to the extent reasonably available to the conservator, at least the following:~~

(1) ~~A reasonably detailed listing of the starting inventory of the estate of the protected person at the beginning of the time period for which the report is made. Every such inventory item shall be specifically identified; provided however, that items may be reported in categories, such as miscellaneous personal property, rather than individually, and valued by category, when reasonable. The fair market value of each such item or category shall be stated in such starting inventory and the method of determining such fair market value shall also be stated. In the case of an item or category which is secured by an encumbrance or debt of any nature, the encumbrance or debt shall be listed separately from the item or category and shall be specifically identified, including the items or category secured by the encumbrance or debt, the amount of the encumbrance or debt as of the date of the starting inventory, the holder of such debt or encumbrance, the family~~

relationship of such holder to the protected person if actually known to the conservator, and any other reasonably relevant information;

~~(2) A reasonably detailed listing, for the covered time period, of the receipts, of any nature, by the estate of the protected person; provided however, that the receipts may be reported in categories, such as interest income, social security payments or rental receipts, if reasonable. Such listing shall reasonably identify each such receipt or category, including the source of such receipt or category and the exact amount or fair market value thereof, and the method of determining such amount or fair market value;~~

~~(3) A reasonably detailed listing, for the covered time period, of all payments or expenses, of any nature, by the estate of the protected person; provided however, that the payments or expenses may be reported in categories, such as rental or house payments, medical expenses or transportation expenses, if reasonable. Each such payment or category shall be set forth in reasonable detail, including the amount thereof, to whom the payment was made, the method or frequency of making such payment if not reasonably indicated by the item or category, the consideration for such payment if not reasonably indicated by the item or category, the family relationship of the receiver of such payment to the protected person if actually known to the conservator, the time period covered by such payment if relevant, and any other information reasonably relevant to such payment;~~

~~(4) A reasonably detailed listing of the ending inventory of the estate of the protected person at the end of the time period for which the report is made, in the same manner as described above for the starting inventory;~~

~~(5) If the report does not, on its face, balance exactly the starting and ending inventories with the receipts and payments of the estate of the protected person, a reasonably detailed analysis and statement of the reasons for such imbalance, and a reasonably detailed listing of the correcting entries necessary to balance such report, such as unrealized gains or losses on assets of the estate, shall be made as part of the report; and~~

~~(6) Any other information, of any nature, which is reasonably relevant to the actions of the conservator during the time period covered by the report, which shall be submitted as part of the report or shall accompany such report.~~

~~(c) Any report prepared by a federally or state chartered financial institution using a fiduciary accounting system that produces statements containing asset positions, receipts, and disbursements shall be deemed to satisfy the reporting requirements set forth in subsection (b) of this section. The court may order any such report filed by a federally or state chartered financial institution to be supplemented or may order that any information reasonably relevant to the report be produced.~~

~~(d) All accounts and reports required by or ordered pursuant to this section, shall be subject to examination and review by the court, or persons designated by the court to make such examination and review, as provided by rules adopted by the Idaho supreme court.~~

~~(e2) If a conservator or guardian:~~

~~(1a) Makes a substantial misstatement on filings of any required annual inventories or reports; or~~

~~(2b) Is guilty of gross impropriety in handling the property of the ward protected person; or~~

~~(3c) Willfully fails to file the report required by this section, after receiving written notice of the failure to file and after a grace period of two (2) months have elapsed;~~

then the court may impose a fine in an amount not to exceed five thousand dollars (\$5,000) on the conservator or guardian. The court may appoint a

guardian ad litem for the ward protected person on its own motion or on the motion of any interested party to represent the ward protected person in any proceedings hereunder and may also appoint appropriate persons or entities to make investigation of the actions of the conservator ~~or guardian~~. The court may also order restitution of funds misappropriated from the estate of a ward protected person and may impose a surcharge upon the conservator ~~or guardian~~ responsible for such misappropriation for all damages, costs and other appropriate sums determined by the court, in addition to any fine imposed including, but not limited to, any fees and costs of the guardian ad litem. The court may take any other actions which are in the best interests of the ward protected person and the protection of the assets of the ward protected person. Any sums awarded hereunder shall be paid by the conservator ~~or guardian~~ and may not be paid by the estate of the ward protected person. The court may enter judgment against a conservator ~~or guardian~~ for any or all of the foregoing, and may impose judgment against any bond of such conservator ~~or guardian~~.

SECTION 6. That Section 31-3201G, Idaho Code, be, and the same is hereby amended to read as follows:

31-3201G. PILOT GUARDIANSHIP AND CONSERVATORSHIP PROJECT FEE FUND. (1) In addition to any other filing and reporting fees applicable to guardianships and conservatorships, the court shall charge the following fees:

- (a) Fifty dollars (\$50.00) for filing cases involving guardianships or conservatorships;
- (b) Forty-one dollars (\$41.00) for reports required to be filed with the court by conservators; and
- (c) Twenty-five dollars (\$25.00) for reports required to be filed with the court by guardians.

(2) The additional fees set forth in paragraphs (a), (b) and (c) of subsection (1) of this section shall be paid to the county treasurer, who shall pay such fees to the state treasurer for deposit in the guardianship ~~and conservatorship~~ project fund, which is hereby created in the state treasury. The fund shall be administered by the Idaho supreme court and shall consist of fees as provided in this section, any moneys recovered pursuant to section 15-5-314(2), Idaho Code, and any funds as may be appropriated by the legislature, grants, donations and moneys from other sources.

(3) Moneys in the fund shall be expended exclusively for the development of a ~~project~~ project which will ~~operate in at least three (3) Idaho counties and which~~ shall be designed to improve reporting and monitoring systems and processes for the protection of persons and their assets where a guardian or conservator has been appointed. Elements of the ~~project~~ project may include, but are not limited to, the following:

- (a) The adoption of standards of practice for guardians;
- (b) A requirement that guardians be registered;
- (c) Consideration of an office of the public guardian in counties in which the ~~project~~ project operates;
- (d) A review of the strengths of Idaho law regarding the treatment and care of developmentally disabled persons; and
- (e) If federal or grant funding is available, funding for adult protection services to seek guardians in cases for which volunteers cannot be enlisted.

(4) The supreme court shall ~~make a report in January 2007, and annually thereafter~~ to the senate judiciary and rules committee and the house judiciary, rules and administration committee regarding the progress of the ~~project~~ project.

SECTION 7. That Section 66-405, Idaho Code, be, and the same is hereby amended to read as follows:

66-405. ORDER IN PROTECTIVE PROCEEDINGS. (1) If it is determined that the respondent does not have a developmental disability but appears in need of protective services, the court may cause the proceeding to be expanded or altered for consideration under the uniform probate code.

(2) If it is determined that the respondent is able to manage financial resources and meet essential requirements for physical health or safety, the court shall dismiss the petition.

(3) If it is determined that the respondent has a developmental disability and is unable to manage some financial resources or meet some essential requirements for physical health or safety, the court may appoint a partial guardian and/or partial conservator on behalf of the respondent. An order establishing partial guardianship or partial conservatorship shall define the powers and duties of the partial guardian or partial conservator so as to permit the respondent to meet essential requirements for physical health or safety and to manage financial resources commensurate with his ability to do so, and shall specify all legal restrictions to which he is subject. A person for whom a partial guardianship or partial conservatorship has been appointed under this chapter retains all legal and civil rights except those which have by court order been limited or which have been specifically granted to the partial guardian or partial conservator by the court.

(4) If it is determined that the respondent has a developmental disability and is unable to manage financial resources or meet essential requirements for physical health or safety even with the appointment of a partial guardian or partial conservator, the court may appoint a total guardian and/or total conservator.

(5) In the event that more than one (1) person seeks to be appointed guardian and/or conservator, the court shall appoint the person or persons most capable of serving on behalf of the respondent; the court shall not customarily or ordinarily appoint the department or any other organization or individual, public or private, that is or is likely to be providing services to the respondent. If an appointment of a guardian is made by will pursuant to section 15-5-301, Idaho Code, such appointment shall be entitled to preference as the guardian under this chapter, if the person so appointed by will is capable of serving on behalf of the respondent and the court finds that it is not in the best interests of the respondent to appoint a different person as guardian.

(6) Subject to the limitations of the provisions of subsection (7) of this section, guardians or conservators may have any of the duties and powers as provided in sections 15-5-312(1) (a) through (d), 15-5-424 and 15-5-425, Idaho Code, and as specified in the order. ~~Any order appointing a partial or total guardian or partial or total conservator under the provisions of this section must require a report to the court at least annually. In addition to such other requirements imposed by law or order, the report shall include:~~

- ~~(a) A description of the respondent's current mental, physical and social condition;~~
- ~~(b) The respondent's present address and living arrangement;~~
- ~~(c) A description of any significant changes in the capacity of the respondent to meet essential requirements for physical health or safety or to manage financial resources;~~
- ~~(d) A description of services being provided the respondent;~~
- ~~(e) A description of significant actions taken by the guardian or conservator during the reporting period;~~
- ~~(f) Any significant problems relating to the guardianship or conservatorship;~~
- ~~(g) A complete financial statement of the financial resources under the control or supervision of the guardian or conservator;~~

~~(h) A description of the need for continued guardianship or conservatorship services; and~~

~~(i) Any material change in the information that the guardian or conservator provided or caused to be provided to the evaluation committee and the court pursuant to section 66-404(7), Idaho Code~~

A guardian shall be required to report to the court at least annually on the status of the person with a developmental disability. A conservator shall be required to file with the court an inventory within ninety (90) days of appointment, an accounting at least annually, and a final accounting at the termination of the appointment of the conservator. All required inventories, accountings and reports shall be under oath or affirmation and shall comply with the Idaho supreme court rules. The court may require a conservator to submit to a physical check of the estate in his control, to be made in any manner the court may specify.

(7) No guardian appointed under this chapter shall have the authority to refuse or withhold consent for medically necessary treatment when the effect of withholding such treatment would seriously endanger the life or health and well-being of the person with a developmental disability. To withhold or attempt to withhold such treatment shall constitute neglect of the person and be cause for removal of the guardian. No physician or caregiver shall withhold or withdraw such treatment for a respondent whose condition is not terminal or whose death is not imminent. If the physician or caregiver cannot obtain valid consent for medically necessary treatment from the guardian, he shall provide the medically necessary treatment as authorized by section 39-4504(1)(i), Idaho Code.

(8) A guardian appointed under this chapter may consent to withholding or withdrawal of artificial life-sustaining procedures, only if the respondent:

(a) Has an incurable injury, disease, illness or condition, certified by the respondent's attending physician and at least one (1) other physician to be terminal such that the application of artificial life-sustaining procedures would not result in the possibility of saving or significantly prolonging the life of the respondent, and would only serve to prolong the moment of the respondent's death for a period of hours, days or weeks, and where both physicians certify that death is imminent, whether or not the life-sustaining procedures are used; or

(b) Has been diagnosed by the respondent's attending physician and at least one (1) other physician as being in a persistent vegetative state which is irreversible and from which the respondent will never regain consciousness.

(9) Any person who has information that medically necessary treatment of a respondent has been withheld or withdrawn may report such information to adult protective services or to the Idaho protection and advocacy system for people with developmental disabilities, which shall have the authority to investigate the report and in appropriate cases to seek a court order to ensure that medically necessary treatment is provided.

If adult protective services or the protection and advocacy system determines that withholding of medical treatment violates the provisions of this section, they may petition the court for an ex parte order to provide or continue the medical treatment in question. If the court finds, based on affidavits or other evidence, that there is probable cause to believe that the withholding of medical treatment in a particular case violates the provisions of this section, and that the life or health of the patient is endangered thereby, the court shall issue an ex parte order to continue or to provide the treatment until such time as the court can hear evidence from the parties involved. Petitions for court orders under this section shall be expedited by the courts and heard as soon as possible. No bond shall be required of a petitioner under this section.

(10) No partial or total guardian or partial or total conservator appointed under the provisions of this section may without specific approval of the court in a proceeding separate from that in which such guardian or conservator was appointed:

- (a) Consent to medical or surgical treatment the effect of which permanently prohibits the conception of children by the respondent unless the treatment or procedures are necessary to protect the physical health of the respondent and would be prescribed for a person who does not have a developmental disability;
- (b) Consent to experimental surgery, procedures or medications; or
- (c) Delegate the powers granted by the order.

Approved March 19, 2014

CHAPTER 165
(H.B. No. 459)

AN ACT

RELATING TO SEX CRIMES; AMENDING SECTION 18-6608, IDAHO CODE, TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO FORCIBLE SEXUAL PENETRATION BY USE OF A FOREIGN OBJECT.

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

SECTION 1. That Section 18-6608, Idaho Code, be, and the same is hereby amended to read as follows:

18-6608. FORCIBLE SEXUAL PENETRATION BY USE OF FOREIGN OBJECT. Every person who, for the purpose of sexual arousal, gratification or abuse, causes the penetration, however slight, of the genital or anal opening of another person, by any object, instrument or device~~;~~:

- (1) ~~a~~Against the victim's will by:
 - (a) ~~u~~Use of force or violence; or
 - (b) ~~by~~ ~~d~~Duress~~;~~; or
 - (c) ~~by~~ ~~t~~Threats of immediate and great bodily harm, accompanied by apparent power of execution~~;~~; or
- (2) ~~w~~Where the victim is incapable, through any unsoundness of mind, whether temporary or permanent, of giving legal consent~~;~~; or
- (3) ~~w~~Where the victim is prevented from resistance by any intoxicating, narcotic or anesthetic substance~~;~~; or
- (4) Where the victim is at the time unconscious of the nature of the act because the victim:
 - (a) Was unconscious or asleep; or
 - (b) Was not aware, knowing, perceiving or cognizant that the act occurred

shall be guilty of a felony and shall be punished by imprisonment in the state prison for not more than life.

Approved March 19, 2014

CHAPTER 166
(H.B. No. 501)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-517, IDAHO CODE, TO REVISE THE POWERS AND DUTIES OF SCHOOL DISTRICT BOARDS OF TRUSTEES, INCLUDING ANY SPECIALLY CHARTERED DISTRICTS AND PUBLIC CHARTER SCHOOLS, TO REVISE PROVISIONS RELATING TO GRIEVANCE PROCEDURES FOR CERTAIN NONCERTIFICATED EMPLOYEES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-517, Idaho Code, be, and the same is hereby amended to read as follows:

33-517. NONCERTIFICATED PERSONNEL. The board of trustees of each school district, including any specially chartered district and any Idaho public charter school, shall have the following powers and duties:

(1) To provide that hiring and evaluation procedures for noncertificated personnel shall be in writing and shall be available for any noncertificated employee's review at anytime during regular business hours. Job descriptions for all noncertificated employees shall be written and shall be made available to employees of the district or other people seeking employment.

(2) To provide a grievance procedure for noncertificated employees of the district which meets the minimum standards of paragraphs (a) through (i) of this subsection. In the event a grievance procedure is not provided, the following grievance procedure shall apply.

(a) A grievance shall be defined as a written allegation of unfair treatment or a violation of school district policy:

(i) A violation of current written board approved school district policy;

(ii) A violation of current written school procedures;

(iii) A violation of the current written board approved employee handbook;

(iv) A condition or conditions that jeopardize the health or safety of the employee or another; or

(v) Tasks assigned outside of the employee's essential job functions and for which the employee has no specialized training.

A noncertificated employee of the district may file a grievance about any matter related to his or her employment, provided that only if it directly relates to any of the grounds for a grievance provided for in paragraph (a) (i) through (v) of this subsection. However, neither the rate of salary or wage of the employee nor the decision to terminate an employee for cause during the initial one hundred eighty (180) days of employment shall be a proper subject for consideration under the grievance procedure provided in this section. For the purposes of this section, "current" means as of the date of the incident giving rise to the grievance.

(b) If a noncertificated employee files a grievance, the employee shall submit the grievance in writing to his or her immediate supervisor the district's human resources administrator within six (6) working days of the incident giving rise to the grievance. The grievance shall state the nature of the grievance and the remedy sought. Within six (6) working days of receipt of the grievance, the immediate supervisor shall provide a written response to the employee district's human resources administrator shall schedule an informal grievance meeting with the grievant, the employee against whom the grievance is filed, respective

advocates, as well as a district administrator who will not be involved in the statutory grievance process. The purpose of the meeting shall be to attempt to find a resolution to the employee grievance.

~~(c) If the noncertificated employee is not satisfied with the response of the immediate supervisor or if there is no response within the time lines, a resolution is not reached during the informal grievance meeting, the individual against whom a grievance is filed shall file a written response to the employee grievance within six (6) working days after the conclusion of the informal grievance meeting. Thereafter, the employee may appeal the grievance to the superintendent of the district or the superintendent's designee within five six (56) working days of the receipt of the written response as set out in subsection (2) (b) of this section or within five six (56) working days from the date the supervisor last had to respond the written response was due if the noncertificated employee received no written response. Within six (6) working days of an appeal, the superintendent or his designee shall communicate with the noncertificated employee in an effort to resolve the appeal. Within five (5) working days of the communication, the superintendent or his designee shall provide a written response to the noncertificated employee.~~

(d) If the noncertificated employee is not satisfied with the response of the superintendent or his the designee, or if there is no response by the superintendent or his the designee within the time frame provided in subsection (2) (c) of this section, the noncertificated employee may request a review of the grievance by a hearing panel within ~~five six~~ (56) working days from receipt of the response provided in subsection (2) (c) of this section if the employee received a written response, or ~~five six~~ (56) working days from the date the superintendent or designee last had to respond if the noncertificated employee received no written response. Within ten (10) working days of receipt of an appeal, ~~the board of trustees shall convene~~ a panel consisting of three (3) persons; one (1) designated by the ~~board of trustees superintendent~~, one (1) designated by the employee, and one (1) agreed upon by the two (2) appointed members for the purpose of reviewing the appeal. Within ~~five ten~~ (510) working days following completion of the review, the panel shall submit its decision in writing to the noncertificated employee, the superintendent, and the board of trustees.

(e) The panel's decision shall be the final and conclusive resolution of the grievance unless the board of trustees overturns the panel's decision by resolution at the board of trustees' next regularly scheduled public meeting or unless, within forty-two (42) calendar days of the filing of the board's decision, either party appeals to the district court in the county where the school district is located. Upon appeal of a decision of the board of trustees, the district court may affirm or set aside and remand the matter to the board of trustees upon the following grounds, and shall not set the same aside on any other grounds:

- (i) That the findings of fact are not based on any substantial, competent evidence;
- (ii) That the board of trustees has acted without jurisdiction or in excess of its powers;
- (iii) That the findings by the board of trustees as a matter of law do not support the decision.

(f) A noncertificated employee filing a grievance pursuant to this section shall be entitled to a representative of the employee's choice at each step of the grievance procedure provided in this section. The supervisor person against whom the grievance is filed, the superintendent, or the superintendent's designee shall be entitled to a representative at each step of the grievance procedure. None of these individuals will be qualified to sit on the advisory grievance panel.

(g) ~~The time-lines~~ timelines of the grievance procedure established in this section may be waived or modified by mutual agreement.

(h) Utilization of the grievance procedure established pursuant to this section shall not constitute a waiver of any right of appeal available pursuant to law or regulation.

(i) Neither the board nor any member of the administration shall take reprisals affecting the employment status of any party in interest. The employee filing a grievance shall not take any reprisals regarding the course of the outcome of the grievance nor take any reprisals against any party or witness participating in the grievance.

(j) ~~A noncertificated employee of a school district shall be required to review and sign any entries made to his personnel file. At reasonable times and places, in the presence of an appropriate district official, a noncertificated employee may inspect documents contained in his official personnel file provided a personnel file consistent with the provisions of section 33-518, Idaho Code.~~

Approved March 19, 2014

CHAPTER 167
(H.B. No. 508)

AN ACT

RELATING TO UNCLAIMED PROPERTY; AMENDING SECTION 14-518, IDAHO CODE, TO REVISE THE REQUIREMENT OF A NOTICE OF ESCHEATMENT AND TO ESTABLISH PROVISIONS CONCERNING PUBLIC OUTREACH.

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

SECTION 1. That Section 14-518, Idaho Code, be, and the same is hereby amended to read as follows:

14-518. NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY. (1) The administrator shall establish, maintain and update at least quarterly a current list of all reported owners of abandoned property on a website that is connected to or that may be accessed from the website maintained by the state treasurer. At least one (1) week before each quarterly website posting of such list, the administrator shall publish a notice in the official newspaper of each Idaho county stating when and where the quarterly website listing of Idaho abandoned property will be accessible to citizens. Provided however, the names and addresses of owners located in a state which will receive the accounts because of reciprocal agreements as permitted by section 14-535, Idaho Code, need not be listed.

(2) The list maintained by the administrator must contain:

(a) The names, in alphabetical order, of persons listed in any report of abandoned property filed with the administrator and entitled to notice;

(b) A statement that information concerning the property may be obtained by any person possessing an interest in the property by addressing an inquiry to the administrator; and

(c) A statement that the property is in the custody of the administrator and all claims must be directed to the administrator; ~~and~~

~~(d) A statement that the property shall escheat to the state of Idaho and become the property of the state of Idaho if not claimed within ten (10) years after it is received by the administrator.~~

(3) The administrator is not required to list any items of less than one hundred dollars (\$100) unless the administrator considers the inclusion of such property in the list to be in the public interest.

(4) This section is not applicable to sums payable on traveler's checks, money orders, and other written instruments presumed abandoned under section 14-504, Idaho Code.

(5) The administrator may undertake other public outreach efforts to:

(a) Inform owners of abandoned property of the location and process for retrieving such property, including participation in public events, placement of media advertisements, and publication and distribution of brochures or flyers; and

(b) Educate holders of property on the requirements of this chapter.

Approved March 19, 2014

CHAPTER 168
(H.B. No. 543)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2014; PROVIDING LEGISLATIVE INTENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 321, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated \$20,000 from the General Fund to the Office of the State Board of Education, to be expended for operating expenditures, for the period July 1, 2013, through June 30, 2014.

SECTION 2. LEGISLATIVE INTENT. It is the intent of the Legislature that the moneys appropriated in this act may be expended during fiscal year 2014 in support of special committees, under the oversight of the State Board of Education, to study K-12 public school structure and funding. The committees could address career ladder compensation, tiered licensure, accountability, autonomy, mastery learning, average daily attendance or cooperative service agencies, but would not be limited to those topics. The State Board of Education shall report on the use of funds to the Idaho Legislature's Joint Finance-Appropriations Committee, the Senate Education Committee and the House of Representatives Education Committee by no later than January 1, 2015.

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

Approved March 19, 2014

CHAPTER 169
(H.B. No. 552)

AN ACT

APPROPRIATING MONEYS TO THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 2015; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING A CONTINUOUS APPROPRIATION FOR CERTAIN COSTS; EXPRESSING LEGISLATIVE INTENT REGARDING THE TRANSFER OF MONEYS FROM THE EARNINGS RESERVE FUNDS TO THE INCOME FUNDS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Endowment Fund Investment Board, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Miscellaneous Revenue				
Fund	\$102,900	\$29,800	\$300	\$133,000
Endowment Administrative				
Fund	<u>334,700</u>	<u>161,700</u>	<u>900</u>	<u>497,300</u>
TOTAL	\$437,600	\$191,500	\$1,200	\$630,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Endowment Fund Investment Board is authorized no more than three and seven-tenths (3.7) full-time equivalent positions at any point during the period July 1, 2014, through June 30, 2015, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. The Endowment Fund Investment Board is hereby granted continuous appropriation authority for consulting fees, bank custodial fees, and portfolio-related external costs for the period July 1, 2014, through June 30, 2015.

SECTION 4. LEGISLATIVE INTENT. It is the intent of the Legislature that for fiscal year 2015, the Endowment Fund Investment Board transfer \$51,978,200 as follows: \$31,292,400 from the Public School Earnings Reserve Fund to the Public School Income Fund; \$1,164,000 from the Agricultural College Earnings Reserve Fund to the Agricultural College Income Fund; \$3,852,000 from the Charitable Institutions Earnings Reserve Fund to the Charitable Institutions Income Fund; \$3,144,000 from the Normal School Earnings Reserve Fund to the Normal School Income Fund; \$1,707,600 from the Penitentiary Earnings Reserve Fund to the Penitentiary Income Fund; \$3,866,400 from the Scientific School Earnings Reserve Fund to the Scientific School Income Fund; \$3,625,400 from the Mental Hospital Earnings Reserve Fund to the Mental Hospital Income Fund; and \$3,326,400 from the University Earnings Reserve Fund to the University Income Fund.

SECTION 5. EMPLOYEE COMPENSATION. It is the intent of the Legislature, working cooperatively with the Governor's Office, the Division of Human Resources, and the Division of Financial Management, to progress toward the

goal of funding a competitive salary and benefit package that will attract qualified applicants, retain employees committed to public service excellence, motivate employees to maintain high standards of productivity, and reward employees for outstanding performance by:

- 1) Adjusting the compensation schedule upwards by 1% to move the salary structure toward market; and
- 2) Continuing the job classifications that are currently on payline exception to address specific recruitment or retention issues; and
- 3) Funding an ongoing 1% salary increase for state employees, and funding the equivalent of a one-time 1% bonus for state employees, based upon employee merit, with flexibility in distribution as determined by the agency directors.

The Legislature also finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees and also to target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 19, 2014

CHAPTER 170
(H.B. No. 553)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF ENERGY RESOURCES FOR FISCAL YEAR 2015;
LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND
PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Office of Energy Resources, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
Indirect Cost Recovery			
Fund	\$100,400	\$23,100	\$123,500
Renewable Energy Resources			
Fund	543,100	135,900	679,000
Miscellaneous Revenue			
Fund	10,200	10,100	20,300
Petroleum Price Violation			
Fund	125,400	76,000	201,400

Federal Grant

Fund	<u>293,400</u>	<u>138,100</u>	<u>431,500</u>
TOTAL	\$1,072,500	\$383,200	\$1,455,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of Energy Resources is authorized no more than eight (8) full-time equivalent positions at any point during the period July 1, 2014, through June 30, 2015, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. It is the intent of the Legislature, working cooperatively with the Governor's Office, the Division of Human Resources, and the Division of Financial Management, to progress toward the goal of funding a competitive salary and benefit package that will attract qualified applicants, retain employees committed to public service excellence, motivate employees to maintain high standards of productivity, and reward employees for outstanding performance by:

- 1) Adjusting the compensation schedule upwards by 1% to move the salary structure toward market; and
- 2) Continuing the job classifications that are currently on payline exception to address specific recruitment or retention issues; and
- 3) Funding an ongoing 1% salary increase for state employees, and funding the equivalent of a one-time 1% bonus for state employees, based upon employee merit, with flexibility in distribution as determined by the agency directors.

The Legislature also finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees and also to target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 19, 2014

CHAPTER 171
(H.B. No. 554)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2015; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Public Utilities Commission, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Indirect Cost Recovery				
Fund	\$40,000			\$40,000
Public Utilities Commission				
Fund	3,955,700	\$1,615,500	\$17,600	5,588,800
Federal Grant				
Fund	<u>137,700</u>	<u>41,900</u>	<u>0</u>	<u>179,600</u>
TOTAL	\$4,133,400	\$1,657,400	\$17,600	\$5,808,400

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Public Utilities Commission is authorized no more than fifty (50) full-time equivalent positions at any point during the period July 1, 2014, through June 30, 2015, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. It is the intent of the Legislature, working cooperatively with the Governor's Office, the Division of Human Resources, and the Division of Financial Management, to progress toward the goal of funding a competitive salary and benefit package that will attract qualified applicants, retain employees committed to public service excellence, motivate employees to maintain high standards of productivity, and reward employees for outstanding performance by:

- 1) Adjusting the compensation schedule upwards by 1% to move the salary structure toward market; and
- 2) Continuing the job classifications that are currently on payline exception to address specific recruitment or retention issues; and
- 3) Funding an ongoing 1% salary increase for state employees, and funding the equivalent of a one-time 1% bonus for state employees, based upon employee merit, with flexibility in distribution as determined by the agency directors.

The Legislature also finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees and also to target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 19, 2014

CHAPTER 172
(H.B. No. 555)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE LAVA HOT SPRINGS FOUNDATION FOR FISCAL YEAR 2014; APPROPRIATING MONEYS TO THE LAVA HOT SPRINGS FOUNDATION FOR FISCAL YEAR 2015; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 309, Laws of 2013, and any other appropriation provided for by law, there is hereby appropriated \$54,000 from the Lava Hot Springs Foundation Fund to the Lava Hot Springs Foundation, to be expended for personnel costs, for the period July 1, 2013, through June 30, 2014.

SECTION 2. There is hereby appropriated to the Lava Hot Springs Foundation from the Lava Hot Springs Foundation Fund, the following amounts to be expended for the designated expense classes, for the period July 1, 2014, through June 30, 2015:

FOR:

Personnel Costs	\$1,085,500
Operating Expenditures	742,600
Capital Outlay	<u>546,300</u>
TOTAL	\$2,374,400

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Lava Hot Springs Foundation is authorized no more than thirteen and eight-tenths (13.8) full-time equivalent positions at any point during the period July 1, 2014, through June 30, 2015, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. EMPLOYEE COMPENSATION. It is the intent of the Legislature, working cooperatively with the Governor's Office, the Division of Human Resources, and the Division of Financial Management, to progress toward the goal of funding a competitive salary and benefit package that will attract qualified applicants, retain employees committed to public service excellence, motivate employees to maintain high standards of productivity, and reward employees for outstanding performance by:

- 1) Adjusting the compensation schedule upwards by 1% to move the salary structure toward market; and
- 2) Continuing the job classifications that are currently on payline exception to address specific recruitment or retention issues; and
- 3) Funding an ongoing 1% salary increase for state employees, and funding the equivalent of a one-time 1% bonus for state employees, based upon employee merit, with flexibility in distribution as determined by the agency directors.

The Legislature also finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to pro-

vide either one-time or ongoing merit increases for deserving employees and also to target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 19, 2014

CHAPTER 173
(H.B. No. 563)

AN ACT

RELATING TO VIDEO VOYEURISM; AMENDING SECTION 18-6609, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE CRIME OF VIDEO VOYEURISM AND TO PROVIDE THAT A CERTAIN SECTION DOES NOT APPLY IN CERTAIN CIRCUMSTANCES.

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

SECTION 1. That Section 18-6609, Idaho Code, be, and the same is hereby amended to read as follows:

18-6609. CRIME OF VIDEO VOYEURISM. (1) As used in this section:

- (a) "Broadcast" means the electronic transmittal of a visual image with the intent that it be viewed by a person or persons.
- (b) "Disseminate" means to make available by any means to any person.
- (c) "Imaging device" means any instrument capable of recording, storing, viewing or transmitting visual images.
- (d) "Intimate areas" means the buttocks, genitals or genital areas of males or females, and the breast area of females.
- (e) "Person" means any natural person, corporation, partnership, firm, association, joint venture or any other recognized legal entity or any agent or servant thereof.
- (f) "Place where a person has a reasonable expectation of privacy" means:
 - (i) A place where a reasonable person would believe that he could undress, be undressed or engage in sexual activity in privacy, without concern that he is being viewed, photographed, filmed or otherwise recorded by an imaging device; or
 - (ii) A place where a person might reasonably expect to be safe from casual or hostile surveillance by an imaging device; or
 - (iii) Any public place where a person, by taking reasonable steps to conceal intimate areas, should be free from the viewing, recording, storing or transmitting of images obtained by imaging devices designed to overcome the barriers created by a person's covering of intimate areas.
- (g) "Publish" means to:
 - (i) Disseminate with the intent that such image or images be made available by any means to any person; or
 - (ii) Disseminate with the intent that such images be sold by another person; or

(iii) Post, present, display, exhibit, circulate, advertise or allow access by any means so as to make an image or images available to the public; or

(iv) Disseminate with the intent that an image or images be posted, presented, displayed, exhibited, circulated, advertised or made accessible by any means and to make such image or images available to the public.

(h) "Sell" means to disseminate to another person, or to publish, in exchange for something of value.

(2) A person is guilty of video voyeurism when:

(a) ~~With the intent of arousing, appealing to or gratifying the lust or passions or sexual desires of such person or another person, or for his own or another person's lascivious entertainment or satisfaction of prurient interest, or for the purpose of sexually degrading or abusing any other person:—(a) He, he~~ uses, installs or permits the use or installation of an imaging device at a place where a person would have a reasonable expectation of privacy, without the knowledge or consent of the person using such place; or

(b) He either intentionally or with reckless disregard disseminates, publishes or sells or conspires to disseminate, publish or sell any image or images of the intimate areas of another person or persons without the consent of such other person or persons and with knowledge he knows or reasonably should have known that such image or images were obtained with the intent set forth above one (1) or both parties agreed or understood that the images should remain private.

(3) A violation of this section is a felony.

(4) This section does not apply to an interactive computer service, as defined in 47 U.S.C. section 230(f)(2), an information service, as defined in 47 U.S.C. section 153 or a telecommunication service, as defined in section 61-121(2) or 62-603(13), Idaho Code, for content provided by another person, unless the provider intentionally aids or abets video voyeurism.

Approved March 19, 2014

CHAPTER 174
(H.B. No. 515)

AN ACT

RELATING TO BEER; AMENDING CHAPTER 10, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-1019, IDAHO CODE, TO PROVIDE FOR BEER SAMPLE TASTING REQUIREMENTS AND LIMITATIONS FOR EVENTS ON RETAIL BEER LICENSED PREMISES.

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

SECTION 1. That Chapter 10, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23-1019, Idaho Code, and to read as follows:

23-1019. BEER SAMPLE TASTING REQUIREMENTS AND LIMITATIONS FOR EVENTS ON RETAIL BEER LICENSED PREMISES. (1) Breweries, wholesalers and distributors may conduct or assist a retail beer licensee at a beer sample tasting on premises not licensed for the sale of beer by the individual glass or opened bottle for consumption on the premises or on the premises of the holder of a beer by the drink license for the purpose of promoting their beer products to the public. The holder of a retail beer license or a beer by the drink license may also conduct beer sample tasting events, with or without the assistance of a brewery, wholesaler or distributor in accordance with this section.

(2) A retail beer licensee shall not be required to hold a beer by the drink license for the purpose of conducting or permitting beer sample tasting events on the premises in accordance with this section unless a charge or other consideration is required of the customer by the retailer in exchange for such beer sample.

(3) Sample tasting events permitted pursuant to this section shall be conducted subject to all of the following requirements:

(a) Sample sizes. The size of each sample of beer shall not exceed one and one-half (1.5) ounces.

(b) Identified tasting area. The retail beer licensee who conducts tastings or who allows a brewer, wholesaler, distributor or retailer to conduct tastings on the retail beer premises shall identify a specific tasting area or areas. Such area or areas shall be of a size and design such that the retail beer licensee and the persons conducting the tasting can observe and control persons in the area to ensure that no minors or visibly intoxicated persons possess or consume alcohol. Customers must remain in the tasting area or areas until they have finished consuming the sample. The retailer shall keep on file at the premises a floor plan identifying the tasting area or areas. If a retailer does not have an identified tasting area or areas, the director may require prior approval of an area or areas before the retailer conducts any more tastings or allows any more tastings to be conducted by the brewer, distributor or retailer on the premises.

(c) Number of in-store tastings. Although there is no limit on the number of tastings a retailer may conduct without the assistance of a brewer, wholesaler or distributor, the retailer shall not permit a brewer or distributor to conduct, or assist in conducting, tastings on the premises of the same licensee more than eight (8) times per calendar year.

(d) Brewer, wholesaler or distributor conducted tastings. A brewer, wholesaler or distributor may hold tastings on consecutive days on one (1) retail premises, provided the tastings shall not exceed two (2) consecutive days. Tastings shall be conducted at least four (4) weeks apart. If a brewer, wholesaler or distributor holds tastings on two (2) consecutive days, they shall not hold another tasting on those retail premises for at least four (4) weeks.

(e) Server requirements. Persons serving or pouring beer at beer tastings on premises for which a beer by the drink license has not been issued must be at least twenty-one (21) years of age.

(4) Brewer, wholesaler or distributor conducted sample tastings. A brewer, wholesaler or distributor may conduct beer sample tastings on premises licensed for the sale of beer for products produced or sold by the brewer, wholesaler or distributor. The brewer or distributor conducting the beer sample tasting shall, in addition to compliance with other requirements of this section, comply with all of the following requirements:

(a) Provide the product to be tasted and remove any remaining product at the end of the tasting.

(b) Provide or pay for a person to serve the beer. The server must be an employee or agent of the brewer or distributor and shall not be an employee or agent of a retailer. The brewer or distributor shall not compensate any employee or agent of the retail licensee to participate in the tasting.

(c) The brewer or distributor shall keep a record of each tasting it conducts, including the date and location of each event and the products served.

(5) Retailer conducted beer sample tastings. Retail beer licensees and beer by the drink licensees may conduct beer sample tastings on their licensed premises and may:

(a) Accept assistance from a brewer, wholesaler or distributor if:

- (i) The only assistance provided is an employee to provide information or education relating to the product being sampled;
- (ii) The retailer pays for the beer; and
- (iii) The retailer is responsible for any advertising.

(b) Conduct an unlimited number of beer sample tastings on the premises if there is no brewer or distributor providing assistance for the event. The retailer may advertise such events.

(6) Notwithstanding any other provision of law, participation by a brewer, wholesaler or distributor in a beer sample tasting event, if expressly authorized by this section, shall not constitute prohibited conduct or unlawful aid to a retailer.

Approved March 20, 2014

CHAPTER 175
(S.B. No. 1378)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 2015; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXEMPTING APPROPRIATION OBJECT TRANSFER LIMITATIONS; AND PROVIDING NON-GENERAL FUND REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho for Health Education Programs, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WASHINGTON-IDAHO VETERINARY EDUCATION:					
FROM:					
General					
Fund	\$538,900	\$1,309,300	\$103,100		\$1,951,300
Restricted					
Fund	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$100,000</u>	<u>100,000</u>
TOTAL	\$538,900	\$1,309,300	\$103,100	\$100,000	\$2,051,300
 II. WWAMI MEDICAL EDUCATION:					
FROM:					
General					
Fund	\$657,100	\$93,600		\$3,211,300	\$3,962,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. IDAHO DENTAL EDUCATION PROGRAM:					
FROM:					
General					
Fund	\$230,200			\$1,275,400	\$1,505,600
Unrestricted					
Fund	<u>168,600</u>	<u>\$25,800</u>	<u>\$5,500</u>	<u>0</u>	<u>199,900</u>
TOTAL	\$398,800	\$25,800	\$5,500	\$1,275,400	\$1,705,500
IV. UNIVERSITY OF UTAH MEDICAL EDUCATION:					
FROM:					
General					
Fund				\$1,333,600	\$1,333,600
V. FAMILY MEDICAL RESIDENCIES:					
FROM:					
General					
Fund	\$601,500	\$321,600		\$1,318,700	\$2,241,800
VI. BOISE INTERNAL MEDICINE:					
FROM:					
General					
Fund				\$240,000	\$240,000
VII. PSYCHIATRY EDUCATION:					
FROM:					
General					
Fund				\$121,400	\$121,400
GRAND TOTAL	\$2,196,300	\$1,750,300	\$108,600	\$7,600,400	\$11,655,600

SECTION 2. EMPLOYEE COMPENSATION. It is the intent of the Legislature, working cooperatively with the Governor's Office, the Division of Human Resources, and the Division of Financial Management, to progress toward the goal of funding a competitive salary and benefit package that will attract qualified applicants, retain employees committed to public service excellence, motivate employees to maintain high standards of productivity, and reward employees for outstanding performance by:

- 1) Adjusting the compensation schedule upwards by 1% to move the salary structure toward market; and
- 2) Continuing the job classifications that are currently on payline exception to address specific recruitment or retention issues; and
- 3) Funding an ongoing 1% salary increase for state employees, and funding the equivalent of a one-time 1% bonus for state employees, based upon employee merit, with flexibility in distribution as determined by the agency directors.

The Legislature also finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees and also to target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Board of Education and the Board of Regents of the University of Idaho for Health Education Programs is authorized no more than twenty-one and three-tenths (21.3) full-time equivalent positions at any point during the period July 1, 2014, through June 30, 2015, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. EXEMPTIONS FROM OBJECT TRANSFER LIMITATIONS. For fiscal year 2015, the State Board of Education and the Board of Regents of the University of Idaho for Health Education Programs is hereby exempted from the provisions of Section 67-3511(1) and (3), Idaho Code, allowing unlimited transfers between object codes, for dedicated fund moneys appropriated to it for the period July 1, 2014, through June 30, 2015. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 5. NON-GENERAL FUND REAPPROPRIATION AUTHORITY. There is hereby reapropriated to the State Board of Education and the Board of Regents of the University of Idaho for Health Education Programs any unexpended and unencumbered balances of moneys categorized as dedicated funds as appropriated for fiscal year 2014, to be used for nonrecurring expenditures, for the period July 1, 2014, through June 30, 2015.

Approved March 26, 2014

CHAPTER 176
(S.B. No. 1381)

AN ACT

APPROPRIATING MONEYS TO THE MEDICAL BOARDS FOR FISCAL YEAR 2015; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Medical Boards, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. BOARD OF DENTISTRY:				
FROM:				
State Regulatory				
Fund	\$271,000	\$262,700	\$2,500	\$536,200
II. BOARD OF MEDICINE:				
FROM:				
State Regulatory				
Fund	\$885,300	\$781,600	\$16,700	\$1,683,600
III. BOARD OF NURSING:				
FROM:				
State Regulatory				
Fund	\$718,100	\$615,100	\$28,900	\$1,362,100
IV. BOARD OF PHARMACY:				
FROM:				
State Regulatory				
Fund	\$969,700	\$645,500	\$9,000	\$1,624,200
V. BOARD OF VETERINARY MEDICINE:				
FROM:				
State Regulatory				
Fund	\$141,100	\$125,500	\$5,000	\$271,600
GRAND TOTAL	\$2,985,200	\$2,430,400	\$62,100	\$5,477,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the programs in the Medical Boards is authorized no more than the number of full-time equivalent positions listed below at any point during the period July 1, 2014, through June 30, 2015, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

- Board of Dentistry Three and six-tenths (3.6)
- Board of Medicine Thirteen and eight-tenths (13.8)
- Board of Nursing Eleven (11)
- Board of Pharmacy Fourteen (14)
- Board of Veterinary Medicine Two (2)

SECTION 3. EMPLOYEE COMPENSATION. It is the intent of the Legislature, working cooperatively with the Governor's Office, the Division of Human Resources, and the Division of Financial Management, to progress toward the goal of funding a competitive salary and benefit package that will attract qualified applicants, retain employees committed to public service excellence, motivate employees to maintain high standards of productivity, and reward employees for outstanding performance by:

- 1) Adjusting the compensation schedule upwards by 1% to move the salary structure toward market; and
- 2) Continuing the job classifications that are currently on payline exception to address specific recruitment or retention issues; and
- 3) Funding an ongoing 1% salary increase for state employees, and funding the equivalent of a one-time 1% bonus for state employees, based upon employee merit, with flexibility in distribution as determined by the agency directors.

The Legislature also finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees and also to target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 26, 2014

CHAPTER 177
(S.B. No. 1383)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE PUBLIC HEALTH SERVICES DIVISION FOR FISCAL YEAR 2015; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR GENERAL FUND TRANSFERS TO THE COOPERATIVE WELFARE FUND; DIRECTING EXPENDITURES FOR TRUSTEE AND BENEFIT PAYMENTS; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; PROVIDING LEGISLATIVE INTENT REGARDING TRICARE VACCINES; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Public Health Services Division, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. PHYSICAL HEALTH SERVICES:					
FROM:					
Cooperative Welfare (General)					
Fund	\$1,349,000	\$2,143,200		\$1,084,600	\$4,576,800
Idaho Immunization Dedicated Vaccine					
Fund		18,970,000			18,970,000
Cancer Control					
Fund	52,400	228,200		123,400	404,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Central Tumor Registry					
Fund				182,700	182,700
Cooperative Welfare (Dedicated)					
Fund	1,644,700	3,861,700		10,186,700	15,693,100
Cooperative Welfare (Federal)					
Fund	<u>5,982,900</u>	<u>6,920,200</u>		<u>38,655,800</u>	<u>51,558,900</u>
TOTAL	\$9,029,000	\$32,123,300		\$50,233,200	\$91,385,500
II. EMERGENCY MEDICAL SERVICES:					
FROM:					
Emergency Medical Services					
Fund	\$1,576,600	\$909,100		\$220,000	\$2,705,700
Emergency Medical Services III					
Fund				1,400,000	1,400,000
Cooperative Welfare (Dedicated)					
Fund	449,100	341,300			790,400
Cooperative Welfare (Federal)					
Fund	<u>739,400</u>	<u>1,286,300</u>		<u>4,517,100</u>	<u>6,542,800</u>
TOTAL	\$2,765,100	\$2,536,700		\$6,137,100	\$11,438,900
III. LABORATORY SERVICES:					
FROM:					
Cooperative Welfare (General)					
Fund	\$1,481,700	\$454,300	\$258,400		\$2,194,400
Cooperative Welfare (Dedicated)					
Fund	432,100	199,300			631,400
Cooperative Welfare (Federal)					
Fund	<u>901,600</u>	<u>949,000</u>	<u>0</u>		<u>1,850,600</u>
TOTAL	\$2,815,400	\$1,602,600	\$258,400		\$4,676,400
GRAND TOTAL	\$14,609,500	\$36,262,600	\$258,400	\$56,370,300	\$107,500,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than two hundred thirteen and five-tenths (213.5) full-time equivalent positions for the Public Health Services Division at any point during the period July 1, 2014, through June 30, 2015, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 4. TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure class shall not be transferred to any other expense class during fiscal year 2015.

SECTION 5. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 6. LEGISLATIVE INTENT REGARDING TRICARE VACCINES. The Legislature continues to recognize the potential gap in coverage created by TRICARE's refusal to participate in the Idaho Immunization Program. The Legislature continues to support and encourage the executive branch in its efforts to negotiate a solution with TRICARE that does not rely on General Fund support. Further, it is the intent of the Legislature that moneys appropriated to purchase TRICARE vaccinations are to be used solely for that purpose and any moneys not expended for TRICARE vaccines are to be reverted back to the General Fund at the close of the fiscal year or as soon thereafter as is practicable.

SECTION 7. EMPLOYEE COMPENSATION. It is the intent of the Legislature, working cooperatively with the Governor's Office, the Division of Human Resources, and the Division of Financial Management, to progress toward the goal of funding a competitive salary and benefit package that will attract qualified applicants, retain employees committed to public service excellence, motivate employees to maintain high standards of productivity, and reward employees for outstanding performance by:

- 1) Adjusting the compensation schedule upwards by 1% to move the salary structure toward market; and
- 2) Continuing the job classifications that are currently on payline exception to address specific recruitment or retention issues; and
- 3) Funding an ongoing 1% salary increase for state employees, and funding the equivalent of a one-time 1% bonus for state employees, based upon employee merit, with flexibility in distribution as determined by the agency directors.

The Legislature also finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees and also to target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 26, 2014

CHAPTER 178
(S.B. No. 1386)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 2015; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXEMPTING APPROPRIATION OBJECT TRANSFER LIMITATIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Office of the Lieutenant Governor from the General Fund, the following amounts to be expended for the designated expense classes, for the period July 1, 2014, through June 30, 2015:

FOR:

Personnel Costs	\$141,000
Operating Expenditures	<u>12,300</u>
TOTAL	\$153,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of the Lieutenant Governor is authorized no more than three (3) full-time equivalent positions at any point during the period July 1, 2014, through June 30, 2015, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EXEMPTIONS FROM OBJECT TRANSFER LIMITATIONS. For fiscal year 2015, the Office of the Lieutenant Governor is hereby exempted from the provisions of Section 67-3511(1) and (3), Idaho Code, allowing unlimited transfers between object codes, for all moneys appropriated to it for the period July 1, 2014, through June 30, 2015. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 4. EMPLOYEE COMPENSATION. It is the intent of the Legislature, working cooperatively with the Governor's Office, the Division of Human Resources, and the Division of Financial Management, to progress toward the goal of funding a competitive salary and benefit package that will attract qualified applicants, retain employees committed to public service excellence, motivate employees to maintain high standards of productivity, and reward employees for outstanding performance by:

- 1) Adjusting the compensation schedule upwards by 1% to move the salary structure toward market; and
- 2) Continuing the job classifications that are currently on payline exception to address specific recruitment or retention issues; and
- 3) Funding an ongoing 1% salary increase for state employees, and funding the equivalent of a one-time 1% bonus for state employees, based upon employee merit, with flexibility in distribution as determined by the agency directors.

The Legislature also finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to pro-

vide either one-time or ongoing merit increases for deserving employees and also to target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 26, 2014

CHAPTER 179
(S.B. No. 1387)

AN ACT

APPROPRIATING MONEYS TO THE STATE INDEPENDENT LIVING COUNCIL FOR FISCAL YEAR 2015; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT REGARDING THE TRANSFER OF MONEYS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the State Independent Living Council, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$20,500	\$78,100		\$98,600
State Independent Living Council (Ded)				
Fund	166,700	86,700		253,400
Federal Grant				
Fund	<u>130,300</u>	<u>23,900</u>	<u>\$220,600</u>	<u>374,800</u>
TOTAL	\$317,500	\$188,700	\$220,600	\$726,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Independent Living Council is authorized no more than four (4) full-time equivalent positions at any point during the period July 1, 2014, through June 30, 2015, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. LEGISLATIVE INTENT. It is the intent of the Legislature that the State Controller shall transfer all unexpended and unencumbered balances from the State Independent Living Council Federal Fund (0291-03) to the Federal Grant Fund (0348) on July 1, 2014, or as soon thereafter as is practicable.

SECTION 4. EMPLOYEE COMPENSATION. It is the intent of the Legislature, working cooperatively with the Governor's Office, the Division of Human Resources, and the Division of Financial Management, to progress toward the goal of funding a competitive salary and benefit package that will attract qualified applicants, retain employees committed to public service excel-

lence, motivate employees to maintain high standards of productivity, and reward employees for outstanding performance by:

- 1) Adjusting the compensation schedule upwards by 1% to move the salary structure toward market; and
- 2) Continuing the job classifications that are currently on payline exception to address specific recruitment or retention issues; and
- 3) Funding an ongoing 1% salary increase for state employees, and funding the equivalent of a one-time 1% bonus for state employees, based upon employee merit, with flexibility in distribution as determined by the agency directors.

The Legislature also finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees and also to target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 26, 2014

CHAPTER 180
(S.B. No. 1388)

AN ACT

APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 2015; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Secretary of State, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. SECRETARY OF STATE:				
FROM:				
General				
Fund	\$1,738,100	\$567,600	\$25,200	\$2,330,900
II. COMMISSION ON UNIFORM LAWS:				
FROM:				
General				
Fund		\$41,000		\$41,000
GRAND TOTAL	\$1,738,100	\$608,600	\$25,200	\$2,371,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Secretary of State is authorized no more than twenty-seven (27) full-time equivalent positions at any point during the period July 1, 2014, through June 30, 2015, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. It is the intent of the Legislature, working cooperatively with the Governor's Office, the Division of Human Resources, and the Division of Financial Management, to progress toward the goal of funding a competitive salary and benefit package that will attract qualified applicants, retain employees committed to public service excellence, motivate employees to maintain high standards of productivity, and reward employees for outstanding performance by:

- 1) Adjusting the compensation schedule upwards by 1% to move the salary structure toward market; and
- 2) Continuing the job classifications that are currently on payline exception to address specific recruitment or retention issues; and
- 3) Funding an ongoing 1% salary increase for state employees, and funding the equivalent of a one-time 1% bonus for state employees, based upon employee merit, with flexibility in distribution as determined by the agency directors.

The Legislature also finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees and also to target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 26, 2014

CHAPTER 181
(S.B. No. 1389)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2015; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Division of Vocational Rehabilitation, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. EXTENDED EMPLOYMENT SERVICES:					
FROM:					
General					
Fund	\$454,500	\$23,700		\$3,418,300	\$3,896,500
II. VOCATIONAL REHABILITATION:					
FROM:					
General					
Fund	\$1,617,800	\$254,500	\$11,900	\$1,513,900	\$3,398,100
Rehabilitation Revenue and Refunds					
Fund				1,081,500	1,081,500
Miscellaneous Revenue					
Fund	62,600	1,700	1,900	894,500	960,700
Federal Grant					
Fund	<u>7,444,000</u>	<u>1,206,700</u>	<u>54,700</u>	<u>5,724,700</u>	<u>14,430,100</u>
TOTAL	\$9,124,400	\$1,462,900	\$68,500	\$9,214,600	\$19,870,400
III. COUNCIL FOR THE DEAF AND HARD OF HEARING:					
FROM:					
General					
Fund	\$161,600	\$37,700			\$199,300
GRAND TOTAL	\$9,740,500	\$1,524,300	\$68,500	\$12,632,900	\$23,966,200

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Vocational Rehabilitation is authorized no more than one hundred fifty-two and five-tenths (152.50) full-time equivalent positions at any point during the period July 1, 2014, through June 30, 2015, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. It is the intent of the Legislature, working cooperatively with the Governor's Office, the Division of Human Resources, and the Division of Financial Management, to progress toward the goal of funding a competitive salary and benefit package that will attract qualified applicants, retain employees committed to public service excellence, motivate employees to maintain high standards of productivity, and reward employees for outstanding performance by:

- 1) Adjusting the compensation schedule upwards by 1% to move the salary structure toward market; and
- 2) Continuing the job classifications that are currently on payline exception to address specific recruitment or retention issues; and
- 3) Funding an ongoing 1% salary increase for state employees, and funding the equivalent of a one-time 1% bonus for state employees, based upon employee merit, with flexibility in distribution as determined by the agency directors.

The Legislature also finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees and also to target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 26, 2014

CHAPTER 182
(S.B. No. 1390)

AN ACT

APPROPRIATING MONEYS TO THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2015; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Commission for the Blind and Visually Impaired, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$659,300	\$48,500	\$599,200	\$1,307,000
Randolph Sheppard				
Fund		27,600	100,100	127,700
Rehabilitation Revenue and Refunds				
Fund		34,300	13,000	47,300
Miscellaneous Revenue				
Fund		28,100	56,300	84,400
Adaptive Aids and Appliances				
Fund	18,600	47,900		66,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant				
Fund	<u>1,836,300</u>	<u>576,200</u>	<u>541,500</u>	<u>2,954,000</u>
TOTAL	\$2,514,200	\$762,600	\$1,310,100	\$4,586,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission for the Blind and Visually Impaired is authorized no more than thirty-nine and twelve hundredths (39.12) full-time equivalent positions at any point during the period July 1, 2014, through June 30, 2015, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. It is the intent of the Legislature, working cooperatively with the Governor's Office, the Division of Human Resources, and the Division of Financial Management, to progress toward the goal of funding a competitive salary and benefit package that will attract qualified applicants, retain employees committed to public service excellence, motivate employees to maintain high standards of productivity, and reward employees for outstanding performance by:

- 1) Adjusting the compensation schedule upwards by 1% to move the salary structure toward market; and
- 2) Continuing the job classifications that are currently on payline exception to address specific recruitment or retention issues; and
- 3) Funding an ongoing 1% salary increase for state employees, and funding the equivalent of a one-time 1% bonus for state employees, based upon employee merit, with flexibility in distribution as determined by the agency directors.

The Legislature also finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees and also to target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 26, 2014

CHAPTER 183
(S.B. No. 1391)

AN ACT

APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 2015; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXEMPTING APPROPRIATION FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Attorney General, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. STATE LEGAL SERVICES:					
FROM:					
General					
Fund	\$16,864,200	\$769,000	\$116,300		\$17,749,500
Consumer Protection					
Fund	224,900	153,000			377,900
Federal Grant					
Fund	<u>728,800</u>	<u>346,600</u>	<u>0</u>		<u>1,075,400</u>
TOTAL	\$17,817,900	\$1,268,600	\$116,300		\$19,202,800
II. INTERNET CRIMES AGAINST CHILDREN:					
FROM:					
General					
Fund	\$314,900	\$235,500		\$1,067,000	\$1,617,400
III. SPECIAL LITIGATION:					
FROM:					
General					
Fund		\$669,400			\$669,400
GRAND TOTAL	\$18,132,800	\$2,173,500	\$116,300	\$1,067,000	\$21,489,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Attorney General is authorized no more than one hundred ninety-four and six-tenths (194.6) full-time equivalent positions at any point during the period July 1, 2014, through June 30, 2015, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EXEMPTIONS FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS. For fiscal year 2015, the Attorney General is hereby exempted from the provisions of Section 67-3511(1), (2) and (3), Idaho Code, allowing unlimited transfers between object codes and between programs, for all moneys appropriated to it for the period July 1, 2014, through June 30, 2015. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 4. EMPLOYEE COMPENSATION. It is the intent of the Legislature, working cooperatively with the Governor's Office, the Division of Human Resources, and the Division of Financial Management, to progress toward the goal of funding a competitive salary and benefit package that will attract qualified applicants, retain employees committed to public service excel-

lence, motivate employees to maintain high standards of productivity, and reward employees for outstanding performance by:

- 1) Adjusting the compensation schedule upwards by 1% to move the salary structure toward market; and
- 2) Continuing the job classifications that are currently on payline exception to address specific recruitment or retention issues; and
- 3) Funding an ongoing 1% salary increase for state employees, and funding the equivalent of a one-time 1% bonus for state employees, based upon employee merit, with flexibility in distribution as determined by the agency directors.

The Legislature also finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees and also to target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 26, 2014

CHAPTER 184
(S.B. No. 1397)

AN ACT

APPROPRIATING MONEYS TO IDAHO PUBLIC TELEVISION FOR FISCAL YEAR 2015; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to Idaho Public Television, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2014, through June 30, 2015:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General				
Fund	\$892,500	\$1,121,000	\$187,200	\$2,200,700
Miscellaneous Revenue				
Fund	3,267,100	2,429,200	148,000	5,844,300
Federal Grant				
Fund	<u>0</u>	<u>0</u>	<u>23,000</u>	<u>23,000</u>
TOTAL	\$4,159,600	\$3,550,200	\$358,200	\$8,068,000

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, Idaho Public Television is authorized no more than sixty (60) full-time equivalent positions at any point during the period July 1, 2014, through June 30, 2015, unless specifically authorized by the Governor. The

Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. It is the intent of the Legislature, working cooperatively with the Governor's Office, the Division of Human Resources, and the Division of Financial Management, to progress toward the goal of funding a competitive salary and benefit package that will attract qualified applicants, retain employees committed to public service excellence, motivate employees to maintain high standards of productivity, and reward employees for outstanding performance by:

- 1) Adjusting the compensation schedule upwards by 1% to move the salary structure toward market; and
- 2) Continuing the job classifications that are currently on payline exception to address specific recruitment or retention issues; and
- 3) Funding an ongoing 1% salary increase for state employees, and funding the equivalent of a one-time 1% bonus for state employees, based upon employee merit, with flexibility in distribution as determined by the agency directors.

The Legislature also finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees and also to target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 26, 2014

CHAPTER 185
(S.B. No. 1426)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 2015.

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

SECTION 1. In addition to the appropriation made in Section 1 of Senate Bill No. 1409, as enacted by the Second Regular Session of the Sixty-second Idaho Legislature, there is hereby appropriated to the State Treasurer \$10,000 from the General Fund, to be expended for operating expenditures, for the period July 1, 2014, through June 30, 2015.

Approved March 26, 2014

CHAPTER 186
(S.B. No. 1431)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 2015.

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

SECTION 1. In addition to any other appropriation provided by law, there is hereby appropriated to the Supreme Court \$1,157,200 from the General Fund for the period July 1, 2014, through June 30, 2015, for the purpose of funding judicial salary increases.

Approved March 26, 2014

CHAPTER 187
(H.B. No. 462)

AN ACT

RELATING TO RESPONSIBILITIES OF SKI AREA OPERATORS AND SKIERS; AMENDING SECTION 6-1102, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 6-1103, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 6-1106, IDAHO CODE, TO REVISE DUTIES OF SKIERS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 6-1102, Idaho Code, be, and the same is hereby amended to read as follows:

6-1102. DEFINITIONS. The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section.

(1) "Aerial passenger tramway" means any device operated by a ski area operator used to transport passengers, by single or double reversible tramway; chair lift or gondola lift; T-bar lift, J-bar lift, platter lift or similar device; ~~or~~ a fiber rope or wire rope tow or a conveyor, which is subject to regulations adopted by the proper authority.

(2) "Passenger" means any person who is lawfully using an aerial passenger tramway, or is waiting to embark or has recently disembarked from an aerial passenger tramway and is in its immediate vicinity.

(3) "Ski area" means the property owned or leased and under the control of the ski area operator within the state of Idaho.

(4) "Ski area operator" means any person, partnership, corporation or other commercial entity and their agents, officers, employees or representatives, who has operational responsibility for any ski area or aerial passenger tramway.

(5) "Skiing area" means all designated slopes and trails but excludes any aerial passenger tramway.

(6) "Skier" means any person present at a skiing area under the control of a ski area operator for the purpose of engaging in ~~the sport of skiing by utilizing the activities including, but not limited to, sliding downhill or jumping on snow or ice on skis, a snowboard, or any other sliding device,~~ or who is using any ski area including, but not limited to, ski slopes, and trails and freestyle terrain but does not include the use of an aerial passenger tramway.

(7) "Ski slopes and trails" mean those areas designated by the ski area operator to be used by skiers for the purpose of participating in the sport of skiing.

(8) "Freestyle terrain" means terrain parks and terrain features including, but not limited to, jumps, hits, ramps, banks, fun boxes, jibs, rails, half-pipes, quarter pipes and any other natural or constructed features.

SECTION 2. That Section 6-1103, Idaho Code, be, and the same is hereby amended to read as follows:

6-1103. DUTIES OF SKI AREA OPERATORS WITH RESPECT TO SKI AREAS. Every ski area operator shall have the following duties with respect to their operation of a skiing area:

(1) To mark all trail maintenance vehicles and to furnish such vehicles with flashing or rotating lights which that shall be in operation whenever the vehicles are working or are in movement in the skiing area;

(2) To mark with a visible sign or other warning implement the location of any hydrant or similar equipment used in snowmaking operations and located on ski slopes and trails;

(3) To mark conspicuously the top or entrance to each slope or trail or area, with an appropriate symbol for its relative degree of difficulty; and those slopes, trails, or areas which are closed, shall be so marked at the top or entrance;

(4) To maintain one (1) or more trail boards at prominent locations at each ski area displaying that area's network of ski trails and slopes with each trail and slope rated thereon as to ~~it~~ its relative degree of difficulty;

(5) To designate by trail board or otherwise which trails or slopes are open or closed;

(6) To place, or cause to be placed, whenever snowgrooming or snowmaking operations are being undertaken upon any trail or slope while such trail or slope is open to the public, a conspicuous notice to that effect at or near the top of such trail or slope;

(7) To post notice of the requirements of this chapter concerning the use of ski retention devices. This obligation shall be the sole requirement imposed upon the ski area operator regarding the requirement for or use of ski retention devices;

(8) To provide a ski patrol with qualifications meeting the standards of the national ski patrol system;

(9) To post a sign at the bottom of all aerial passenger tramways which advises the passengers to seek advice if not familiar with riding the aerial passenger tramway; and

(10) Not to intentionally or negligently cause injury to any person; provided, that except for the duties of the operator set forth in subsections (1) through (9) of this section and in section 6-1104, Idaho Code, the operator shall have no duty to eliminate, alter, control or lessen the risks inherent in the sport of skiing, which risks include, but are not limited to, those described in section 6-1106, Idaho Code; and, that no activities undertaken by the operator in an attempt to eliminate, alter, control or lessen such risks shall be deemed to impose on the operator any duty to accomplish such activities to any standard of care.

SECTION 3. That Section 6-1106, Idaho Code, be, and the same is hereby amended to read as follows:

6-1106. DUTIES OF SKIERS. It is recognized that skiing as a recreational sport is hazardous to skiers, regardless of all feasible safety measures which that can be taken.

Each skier expressly assumes the risk of and legal responsibility for any injury to person or property which that results from participation in the sport of skiing including any injury caused by the following, all whether above or below snow surface: variations in terrain; any movement of snow including, but not limited to, slides, sloughs or avalanches; any depths of snow, including tree wells, or any accumulations of snow, whether natural or man made, including snowmaking mounds; freestyle terrain; surface or subsurface snow or ice conditions; bare spots, rocks, trees, other forms of forest growth or debris, lift towers and components thereof; utility poles, and snowmaking and snowgrooming equipment which is plainly visible or plainly marked in accordance with the provisions of section 6-1103, Idaho Code. Therefore, each skier shall have the sole individual responsibility for knowing the range of his own ability to negotiate any slope or trail, and it shall be the duty of each skier to ski within the limits of the skier's own ability, to maintain reasonable control of speed and course at all times while skiing, to heed all posted warnings, to ski only on a skiing area designated by the ski area operator and to refrain from acting in a manner which may cause or contribute to the injury of anyone. The responsibility for collisions by any skier while actually skiing, with any person, shall be solely that of the individual or individuals involved in such collision and not that of the ski area operator.

No person shall place any object in the skiing area or on the uphill track of any aerial passenger tramway which that may cause a passenger or skier to fall; cross the track of any T-bar lift, J-bar lift, platter lift or similar device, ~~or~~ a fiber rope or wire rope tow and a conveyor, except at a designated location; or depart when involved in a skiing accident, from the scene of the accident without leaving personal identification, including name and address, before notifying the proper authorities or obtaining assistance when that person knows that any other person involved in the accident is in need of medical or other assistance.

No skier shall fail to wear retention straps or other devices to help prevent runaway skis equipment.

Approved March 26, 2014

CHAPTER 188

(H.B. No. 470, As Amended in the Senate)

AN ACT

RELATING TO WOLF CONTROL; PROVIDING LEGISLATIVE INTENT; AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 53, TITLE 22, IDAHO CODE, TO PROVIDE A CHAPTER HEADING, TO PROVIDE FOR THE IDAHO WOLF DEPREDATION CONTROL BOARD, TO PROVIDE FOR OFFICERS, TO PROVIDE FOR MEETINGS, TO PROVIDE FOR COMPENSATION, TO PROHIBIT THE USE OF FUNDS FOR CERTAIN PURPOSES, TO PROVIDE FOR REIMBURSEMENT OF EXPENSES, TO PROVIDE THAT THE DEPARTMENT OF AGRICULTURE AND DEPARTMENT OF FISH AND GAME SHALL BEAR THE COST OF ADMINISTERING MEETINGS, TO DEFINE TERMS, TO PROVIDE FOR POWERS AND DUTIES, TO CLARIFY THAT CONTROL OF WOLVES UNDER SPECIFIED LAW DOES NOT INCLUDE THE PAYMENT OF COMPENSATION FOR DAMAGES, TO PROVIDE THAT CONTROL ACTIVITIES SHALL BE CONSISTENT WITH SPECIFIED LAW, TO PROVIDE FOR THE WOLF CONTROL FUND, TO PROVIDE FOR SUBACCOUNTS, TO PROVIDE FOR THE WOLF CONTROL SECONDARY FUND, TO PROVIDE FOR THE COLLECTION AND DEPOSIT OF WOLF CONTROL ASSESSMENTS BY THE STATE BRAND INSPECTOR AND THE IDAHO SHEEP AND GOAT HEALTH BOARD, TO PROVIDE FOR THE USE OF CERTAIN FUNDS, TO PROVIDE FOR THE TRANSFER OF SPECIFIED MONEYS FROM THE FISH AND GAME FUND TO THE FISH AND GAME FUND TRANSFER SUBACCOUNT, TO AUTHORIZE THE IDAHO FISH AND GAME COMMISSION TO DIRECT THE WOLF

DEPREDATION CONTROL BOARD AS TO USE OF CERTAIN FUNDS, TO PROVIDE THAT THE WOLF DEPREDATION CONTROL BOARD SHALL COMPLY WITH THE DIRECTION OF THE COMMISSION, TO PROVIDE AN EXCEPTION TO SPECIFIED REQUIREMENTS FOR COLLECTION OF WOLF CONTROL ASSESSMENTS DURING A SPECIFIC TIME PERIOD, TO PROVIDE A CONTINGENCY IN THE EVENT A SPECIFIED SUM IS NOT COLLECTED OR AVAILABLE FOR DEPOSIT INTO THE FUND AND TO PROVIDE A SUNSET DATE; AMENDING CHAPTER 1, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-125, IDAHO CODE, TO PROVIDE THAT DURING A SPECIFIED TIME PERIOD THE FISH AND GAME COMMISSION SHALL COMPLY WITH SPECIFIED LAW IN PROVIDING THE WOLF DEPREDATION CONTROL BOARD WITH DIRECTION FOR USE OF CERTAIN FISH AND GAME FUNDS; AMENDING SECTION 25-130, IDAHO CODE, TO PROVIDE THAT WOLF CONTROL ASSESSMENTS SHALL NOT BE CONSIDERED SPECIAL ASSESSMENTS SUBJECT TO CERTAIN EFFECTIVE DATE PROVISIONS; AMENDING SECTION 25-131, IDAHO CODE, TO PROVIDE FOR WOLF CONTROL ASSESSMENTS BY THE IDAHO SHEEP AND GOAT HEALTH BOARD DURING A SPECIFIED PERIOD OF TIME; AMENDING SECTION 25-1145, IDAHO CODE, TO INCREASE THE MAXIMUM FEE THAT THE STATE BRAND INSPECTOR MAY IMPOSE FOR BRAND RENEWAL AND TO PROVIDE THAT A DESIGNATED AMOUNT OF THE FEE SHALL BE CONSIDERED A WOLF CONTROL ASSESSMENT FOR A SPECIFIED PERIOD OF TIME; TO PROVIDE FOR NONSEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. LEGISLATIVE INTENT. The Legislature finds that additional financial resources are needed to help continue in the implementation of Idaho's wolf management plan. It is the intent of the Legislature to establish a governing board to provide funds for the management and control of depredating wolves in Idaho.

SECTION 2. That Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 53, Title 22, Idaho Code, and to read as follows:

CHAPTER 53
IDAHO WOLF DEPREDATION CONTROL BOARD

22-5301. BOARD CREATED. (1) Notwithstanding the provisions of section 25-2612A, Idaho Code, there is hereby created the Idaho wolf depredation control board in the office of the governor for the purpose of directing and managing funds as provided for in this chapter for wolf depredation control within the state of Idaho. The board shall be composed of five (5) members, three (3) of whom shall be appointed by the governor. A majority of the members present at any meeting shall constitute a quorum, and a majority vote of the quorum at any meeting shall constitute an official act of the board. The membership of the board shall consist at all times of members representing the following executive agencies and interests:

- (a) The director of the department of agriculture;
- (b) The director of the department of fish and game;
- (c) A member representative of sportsmen's interests;
- (d) A member representative of the livestock industry; and
- (e) A member of the public at large, not to exclude any person who may have sportsmen or livestock interests.

Members of the board not representing an executive agency will be appointed by the governor.

(2) Each member of the board shall be a citizen of the United States and a bona fide resident of the state of Idaho. During a term of office, a member must continue to possess all of the qualifications necessary for appointment. Failure to maintain such qualifications shall be cause for removal from office. The governor may remove any appointed board member at will.

(3) On July 1, 2014, the governor shall appoint each member who is not an executive agency director to an initial term as follows: the member representative of sportsmen's interests shall serve an initial appointment of two (2) years; the member representative of the livestock industry shall serve an initial appointment of two (2) years and the member of the public at large shall serve an initial appointment of three (3) years. All subsequent terms of appointment of all appointed board members shall be two (2) years. Vacancies shall be filled as terms expire. Each of such board members shall hold office until his successor has been appointed. The term of office shall commence on July 1 of the year of appointment and expire on June 30 of the last year of the term of office.

(4) Vacancies in any unexpired term shall be filled by appointment by the governor for the remainder of the unexpired term. The member appointed to fill a vacancy shall represent the same interest as the member whose office has become vacant.

22-5302. OFFICERS -- MEETINGS -- EXPENSES. (1) The board shall be cochaired by the director of the department of agriculture and the director of the department of fish and game. A vice chairman and a secretary-treasurer shall be annually elected from among the appointed board members. The board shall meet annually and at such other times as called by a cochairman or when requested by two (2) or more members of the board.

(2) In the performance of official duties, each appointed board member shall be compensated as provided in section 59-509(b), Idaho Code.

(3) No funds raised pursuant to section 22-5306, Idaho Code, shall be used for travel or expenses outside the state of Idaho.

(4) Reimbursement of actual expenses incurred by appointed board members shall be paid from the state wolf control fund.

(5) The department of agriculture and the department of fish and game shall bear the cost of administering the meetings of the board.

22-5303. DEFINITIONS. As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Idaho wolf depredation control board;

(2) "Brand board" means the state brand board;

(3) "Director" means either the director of the department of agriculture or the director of the department of fish and game, as so designated;

(4) "Wolf" means the *Canis lupus* species.

22-5304. POWERS AND DUTIES. (1) It is hereby made the duty of the board to administer the wolf control fund including setting the procedures and standards for payment from the fund. In carrying out these duties, the board may cooperate with federal, state, county, city and private agencies, organizations and individuals.

(2) The board has the authority to enter into agreements, including contracts, memoranda of understanding or memoranda of agreement with any federal agency, state agency, political subdivision of the state of Idaho or agency of another state in order to implement the provisions of this act.

(3) The control of wolves under this chapter does not include the payment of compensation for damages. Control activities funded by the board shall be consistent with the provisions of section 36-1107(c), Idaho Code.

(4) The board may contract with the director of the Idaho state department of agriculture (ISDA) for legal and fiscal services as required under this act.

22-5305. WOLF CONTROL FUND. (1) The wolf control fund is hereby created and established in the state treasury. Moneys in the fund shall be divided into three (3) subaccounts identified as follows:

(a) The "livestock subaccount" which shall consist of all assessments collected by the state brand inspector and the Idaho sheep and goat health board pursuant to the provisions of this chapter;

(b) The "fish and game fund transfer subaccount" which shall consist of all moneys transferred to the fund from the fish and game fund pursuant to the provisions of this chapter; and

(c) The "other money subaccount" which shall consist of any moneys other than moneys identified in paragraphs (a) and (b) of this subsection that are deposited in the fund.

The state treasurer shall invest the idle moneys of each subaccount and the interest earned on such investments shall be retained by each subaccount. Moneys in the fund are continuously appropriated to be used solely for carrying out the provisions of this chapter.

(2) The wolf control secondary fund, hereinafter referred to as the secondary fund, is hereby created and established in the state treasury. Beginning in fiscal year 2015, at any time moneys in the livestock subaccount of the wolf control fund exceed one hundred ten thousand dollars (\$110,000), any amount over and above one hundred ten thousand dollars (\$110,000) shall be deposited in the secondary fund. The state treasurer shall invest the idle moneys of the secondary fund, and the interest earned on such investments shall be retained by the secondary fund. Moneys in the fund are continuously appropriated to be used solely for meeting the livestock assessment deposit requirements of section 22-5306(1), Idaho Code. In the event collected assessments do not meet the minimum deposit requirements, an amount from the secondary fund as is necessary to meet the minimum deposit requirements in combination with collected assessments may be transferred to the livestock subaccount of the wolf control fund at the end of each fiscal year.

22-5306. WOLF CONTROL ASSESSMENTS -- USE OF FUNDS -- FISH AND GAME FUND TRANSFER. In order to carry out the provisions of this chapter, the following shall occur:

(1) Wolf control assessments collected from the livestock industry, by and through the state brand inspector and the Idaho sheep and goat health board, shall be combined for purposes of deposit into the livestock subaccount of the wolf control fund and, beginning in fiscal year 2015, shall total one hundred ten thousand dollars (\$110,000) annually for each fiscal year.

(a) The state brand inspector shall assess, levy and collect, as set forth in section 25-1145, Idaho Code, wolf control assessments in an amount sufficient to fund, in combination with Idaho sheep and goat health board assessments, the livestock subaccount of the wolf control fund as provided in subsection (1) of this section.

(b) The Idaho sheep and goat health board shall assess, levy and collect, as set forth in section 25-131, Idaho Code, wolf control assessments in an amount sufficient to fund, in combination with state brand inspector assessments, the livestock subaccount of the wolf control fund as provided in subsection (1) of this section.

(2) The wolf depredation control board shall use all funds in the wolf control fund, with the exception of moneys transferred from the fish and game fund as provided for in subsections (3), (4) and (5) of this section unless so directed by the fish and game commission pursuant to subsection (3) of this section, for all activities associated with legal lethal means of control and for the purposes of sections 22-5302 and 22-5304(4), Idaho Code.

(3) Beginning in fiscal year 2015, the state controller shall annually, as soon after July 1 of each year as practical, transfer one hundred ten thousand dollars (\$110,000) from the fish and game fund to the fish and game fund transfer subaccount of the wolf control fund. The fish and game commission, on or before July 1 of each year, is authorized to direct the wolf depredation

control board as to the use of such funds and the wolf depredation control board shall comply with the direction of the commission.

(4) Between the effective date of this act and fiscal year 2015, the assessment and transfer amount requirements of this section shall not be required. In lieu thereof, wolf control assessments collected by the state brand inspector and the Idaho sheep and goat health board for deposit into the livestock subaccount of the wolf control fund shall be matched by an amount to be transferred from the fish and game fund to the fish and game fund transfer subaccount of the wolf control fund, but in no event shall either the wolf control assessments deposited into the livestock subaccount or moneys from the fish and game fund transferred into the fish and game fund transfer subaccount exceed one hundred ten thousand dollars (\$110,000).

(5) Notwithstanding any other provision of this chapter, in the event the total wolf control assessments collected from the livestock industry in any fiscal year are less than one hundred ten thousand dollars (\$110,000), and available moneys in the secondary fund are insufficient to bring the total to one hundred ten thousand dollars (\$110,000), the livestock industry shall only be required to deposit the moneys so collected and available from the secondary fund into the livestock subaccount of the wolf control fund, and the state controller shall transfer a matching amount from the fish and game fund to the fish and game fund transfer subaccount of the wolf control fund.

22-5307. SUNSET DATE. The provisions of this chapter shall be null, void and of no force and effect on and after June 30, 2019.

SECTION 3. That Chapter 1, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-125, Idaho Code, and to read as follows:

36-125. FIXING ASSESSMENT AND FEES FOR WILDLIFE -- WOLF CONTROL FUND. From the effective date of this act through June 30, 2019, the fish and game commission shall comply with the provisions of section 22-5306, Idaho Code, in providing the wolf depredation control board with direction for use of fish and game funds transferred to the fish and game fund transfer subaccount of the wolf control fund made pursuant to the provisions of section 22-5306, Idaho Code.

SECTION 4. That Section 25-130, Idaho Code, be, and the same is hereby amended to read as follows:

25-130. FIXING ASSESSMENT RATE -- PAYMENT OF CLAIMS -- REPORT -- INSPECTION, QUARANTINE AND TREATMENT OF SHEEP -- DISTRICTS. The board shall meet and fix the rate of special assessment to be levied as provided for in this chapter. Any change in the rate of the special assessment shall be made to be effective at the start of a calendar year. The wolf control assessment provided for in section 25-131, Idaho Code, shall not be considered a special assessment subject to the effective date provisions of this section. The board shall audit all bills of salaries and expenses incurred in the enforcement of this chapter that may be payable from the Idaho sheep and goat health account which shall be audited, allowed and paid as other claims against the state. The board shall have power to order an inspection or quarantine of any sheep in the state of Idaho, whether diseased or exposed to disease, to compel dipping or other treatment of sheep, whether diseased or exposed to disease, at such times and as often as it deems necessary to ensure the suppression or eradication of any infectious or contagious disease of sheep and divide the state into such districts as may be necessary for the enforcement of this chapter.

SECTION 5. That Section 25-131, Idaho Code, be, and the same is hereby amended to read as follows:

25-131. IDAHO SHEEP AND GOAT HEALTH ACCOUNT -- ASSESSMENT -- FIRST PURCHASER TO MAKE REPORT -- PENALTY FOR FAILURE TO MAKE REPORT -- APPROPRIATION. (1) In order for the board to carry out the provisions of this chapter, the board shall assess, levy and collect an assessment established by the board, not to exceed twelve cents (12¢) per pound on all wool, in the grease basis, sold through commercial channels, and from the effective date of this act through June 30, 2019, two cents (2¢) of the assessment shall be considered a wolf control assessment pursuant to section 22-5306, Idaho Code. In the event that a sheep, which produces wool subject to this assessment, shall be located outside the state of Idaho during a part of the assessment year, the amount of the assessment shall be reduced on a pro rata basis. Such assessment shall be levied and assessed to the producer at the time of the first sale of wool and shall be deducted by the first purchaser from the price paid to the producer at the time of such first sale. The assessment provided in this section shall not be levied or collected on any casual sale. In addition to the assessment provisions of this section related to wool, the board may by rule establish an assessment on goats that would assess goats on a per head basis and at a rate that is comparable to the assessment on wool.

(2) The assessment provided by this section shall constitute a lien prior to all other liens and encumbrances upon such wool except liens which are declared prior by operation of a statute of this state.

(3) If the first purchaser lives or has his principal office in another state, the producer shall make the reports and pay the assessments to the board as required under this section unless the first purchaser agrees in writing to make such reports and pay such assessments.

(4) The first purchaser shall specify the amounts of assessments withheld in any written statements made to the producer.

(5) The first purchaser shall make reports to the board on forms prescribed by the board, and no first purchaser shall fail to make such reports or falsify any such reports. The assessment deducted and withheld by a first purchaser, as required in subsection (1) of this section, shall be paid to the board on a quarterly calendar year basis, and shall be due and payable within thirty (30) days after the end of the quarter. All moneys collected by the board under the provisions of this chapter shall be paid to the state treasurer. All moneys received from the assessment pursuant to this section shall be deposited in the state treasury by the state treasurer to the credit of a special account in the state operating fund hereby created to be known as the "Idaho sheep and goat health account."

(6) A first purchaser who delays transmittal of reports and payments of assessments beyond the time stated in subsection (5) of this section shall pay five percent (5%) of the amount due for the first month of delay and one percent (1%) of the amount due for each month of delay thereafter. Such moneys shall be deposited in the Idaho sheep and goat health account.

(7) In addition thereto, the said account shall consist of any appropriations made by the legislature for the use of and expenditure by said board. All fees of every kind collected under the provisions of this chapter, or under any rules and regulations made pursuant to the provisions of this chapter, shall be deposited in the state treasury in the manner hereinabove described. The moneys in said special account are hereby appropriated for the use and expenditure of said board carrying out the provisions of this chapter and the rules and regulations made herein and said account is hereby declared to be a continuing account.

(8) All moneys appropriated to the board for the purposes of sheep disease prevention, abatement, suppression, control or eradication shall be expended by the board only for those purposes, in accordance with the duties specified in section 25-128(1), Idaho Code.

(9) All moneys received by the board from that portion of the special assessment which is made to carry on the work for prevention and control of damage caused by predatory animals and other vertebrate pests shall be expended by the board in the respective districts comprising the counties where the assessment was collected less the actual and necessary administrative costs for carrying out the provisions of this chapter. All moneys received by such account for work for prevention and control of damage caused by predatory animals and other vertebrate pests except as herein otherwise provided shall be expended by the board within the district or districts specified by the party or agency providing such funds and any trust fund must be held inviolate for the purposes of the trust.

(10) The right is reserved to the state of Idaho to audit the funds of the board at any time.

SECTION 6. That Section 25-1145, Idaho Code, be, and the same is hereby amended to read as follows:

25-1145. RENEWAL OF BRANDS. (1) On July 1, 2011, and at the end of each recording period of an original application pursuant to section 25-1144, Idaho Code, and at the end of each successive period thereafter on the first day of July, the recording of every brand in the office of the state brand inspector shall be renewed upon application for such renewal by the owner. The fee of the state brand inspector for filing each such renewal application shall be not more than one hundred twenty-five dollars (\$10025), and from the effective date of this act through June 30, 2019, twenty-five dollars (\$25.00) of which shall be considered a wolf control assessment pursuant to section 22-5306, Idaho Code, and it shall be the duty of the state brand inspector to furnish without further or other charge one (1) certified copy of the certificate of such brand to the owner thereof upon his request, and for each additional certified copy the state brand inspector shall be paid a reasonable fee as determined by the state brand board not to exceed one dollar and fifty cents (\$1.50) for the additional certified copy. The fee for recording each renewal shall be paid coincident with the filing of the application therefor.

(2) Each application for the renewal and the record of renewal of each brand shall be made in the same manner as is provided by law for the filing of an original application for the recording of a brand.

(3) If an application for the renewal of any brand shall not be made and the fee therefor paid within the period of six (6) months after the expiration date for such renewal, then such brand may be allotted by the state brand inspector to any other person who shall apply therefor.

SECTION 7. NONSEVERABILITY. If any section or provision of this act shall be adjudged unconstitutional or invalid for any reason, then such invalidity or unconstitutionality shall invalidate this act in its entirety and to this end and in this event the provisions of this act are declared to be nonseverable.

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 26, 2014

CHAPTER 189
(H.B. No. 498)

AN ACT

RELATING TO THE FILM AND TELEVISION PRODUCTION BUSINESS REBATE FUND; AMENDING SECTION 2, CHAPTER 350, LAWS OF 2008, TO REVISE A SUNSET DATE AND THE DATE WHEN THE STATE CONTROLLER IS DIRECTED TO TRANSFER MONEYS IN THE FUND TO THE GENERAL FUND.

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

SECTION 1. That Section 2, Chapter 350, Laws of 2008, be, and the same is hereby amended to read as follows:

SECTION 2. The provisions of this act shall be null, void and of no force and effect on and after July 1, 201420. On July 1, 201420, or as soon thereafter as is practicable, the State Controller is hereby directed to transfer any unexpended or unobligated moneys remaining in the fund to the General Fund.

Approved March 26, 2014

CHAPTER 190
(H.B. No. 509)

AN ACT

RELATING TO THE COURT TECHNOLOGY FUND AND FEES; AMENDING SECTION 1-1623, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN FUND AND A CERTAIN PROGRAM, TO REVISE PROVISIONS RELATING TO A CERTAIN FUND AND TO PROVIDE CERTAIN REPORTING REQUIREMENTS; AMENDING SECTION 1-2303, IDAHO CODE, TO INCREASE A CERTAIN FEE, TO PROVIDE FOR A CERTAIN DEPOSIT INTO THE COURT TECHNOLOGY FUND AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 1-2311, IDAHO CODE, TO ESTABLISH A CERTAIN FEE AND TO PROVIDE FOR A CERTAIN DEPOSIT INTO THE COURT TECHNOLOGY FUND; AMENDING SECTION 10-1305, IDAHO CODE, TO INCREASE A CERTAIN FEE AND TO PROVIDE FOR THE DEPOSIT OF CERTAIN FEE AMOUNTS INTO CERTAIN FUNDS; AMENDING SECTION 31-3201, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN FEE AND A CERTAIN FUND; AMENDING SECTION 31-3201A, IDAHO CODE, TO PROVIDE A CODE REFERENCE, TO REMOVE CHAPTER REFERENCES, TO REVISE THE NAME OF A CERTAIN FUND, TO INCREASE CERTAIN FEES, TO ESTABLISH CERTAIN FEES, TO PROVIDE FOR CERTAIN DEPOSITS INTO CERTAIN FUNDS, TO SPECIFY THAT CERTAIN FEES SHALL BE SET BY RULE OR ADMINISTRATIVE ORDER OF THE SUPREME COURT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 31-3201H, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN FEE AND A CERTAIN FUND AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 31-3221, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN FUND.

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

SECTION 1. That Section 1-1623, Idaho Code, be, and the same is hereby amended to read as follows:

1-1623. ~~IDAHO STATEWIDE TRIAL COURT AUTOMATED RECORDS SYSTEM (ISTARS)~~ COURT TECHNOLOGY FUND -- ANNUAL REPORT. (1) There is hereby created in the office of the state treasurer the ISTARS court technology fund. Moneys deposited into the fund pursuant to sections 1-2303, 1-2311, 10-1305, 31-3201, 31-3201A, 31-3201H and 31-3221, Idaho Code, upon appropriation by the leg-

islature, shall be used by the supreme court for the purpose of maintaining, replacing and enhancing the ~~Idaho Statewide Trial Court Automated Records System (ISTARS)~~ court technology program, and other technologies that assist in the efficient management of the courts, or that improve access to the courts and court records including, but not limited to, a system for payments by credit card or debit card as provided in section 31-3221, Idaho Code, or that improve access to the courts and development of electronic filing of documents in court cases, video conferencing and electronic access to court records. The ISTARS court technology fund shall be separate and distinct from the state general fund, and expenditures from the ISTARS court technology fund shall be solely dedicated to the purposes set forth in this section. Moneys deposited into the fund may be allowed to accumulate from year to year for designated maintenance, replacement, extension or enhancement of the ISTARS court technology program and for other technologies that assist in the efficient management of the courts. Interest earned on the investment of idle moneys in the ISTARS court technology fund shall be returned to the ISTARS court technology fund.

(2) On or before the first day of each legislative session, the supreme court shall provide an annual report for the previous fiscal year to the governor, the chairman of the judiciary and rules committee of the senate, the chairman of the judiciary, rules and administration committee of the house of representatives and the chairmen of the joint finance-appropriations committee that summarizes the status of the court technology fund, the maintenance, replacement, extension or enhancement of court technology, and the manner and extent to which court technology has advanced the timely resolution of cases, improved access to the courts, produced savings and made more effective use of judicial resources.

SECTION 2. That Section 1-2303, Idaho Code, be, and the same is hereby amended to read as follows:

1-2303. FILING OF CLAIM -- DEFAULT. (1) Upon filing a claim, the clerk shall furnish to the plaintiff a form of answer and instructions to the defendant, which, among other matters shall advise the defendant that if the defendant desires to have a hearing on the matter, the defendant must sign, complete and file the answer with the clerk. The instructions also shall notify the defendant that if the defendant does not sign and file the answer within twenty (20) days from the date of service on the defendant, judgment will be entered as requested in the claim.

(2) If no answer is filed within twenty (20) days, judgment may be entered by the court as provided in Rule 55, I.R.C.P. If an answer is filed by the defendant, the court shall set the matter for trial or mediation, by notice mailed to each party.

(3) The court shall collect in advance upon each claim the sum of thirteen ~~thirty-three~~ dollars (\$~~133.00~~), which shall be in addition to the costs necessary to effect service of the claim upon the defendant. This fee shall be distributed as follows: seven dollars (\$7.00) shall be paid to the county treasurer for deposit in the district court fund of the county; and six dollars (\$6.00) shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fee to the state treasurer for deposit in the senior magistrate judges fund; and twenty dollars (\$20.00) shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit into the court technology fund.

SECTION 3. That Section 1-2311, Idaho Code, be, and the same is hereby amended to read as follows:

1-2311. APPEAL TO LAWYER MAGISTRATE. If either party is dissatisfied he may, within thirty (30) days from the entry of said judgment against him, appeal to a lawyer magistrate other than the magistrate who entered said judgment; and if the final judgment is rendered against him by such lawyer magistrate, then he shall pay, in addition to any judgment rendered in the magistrate's division, an attorney's fee to the prevailing party in the sum of twenty-five dollars (\$25.00), provided, however, that appeals from such small claims department shall only be allowed in such cases as appeals would be allowed if the action were instituted in the magistrate's division as is now provided, and further provided that the appeal shall be heard in the county wherein the original small claim was filed. A fee of twenty dollars (\$20.00) shall be paid by the party taking the appeal, which shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit into the court technology fund.

SECTION 4. That Section 10-1305, Idaho Code, be, and the same is hereby amended to read as follows:

10-1305. FEES. Any person filing a foreign judgment shall pay to the clerk of the court twenty-seven dollars (\$27.00). Seven dollars (\$7.00) of such fee shall be paid to the county treasurer for deposit in the district court fund of the county and twenty dollars (\$20.00) of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit into the court technology fund. Fees for docketing, transcription or other enforcement proceedings shall be as provided for judgments of the district court of this state.

SECTION 5. That Section 31-3201, Idaho Code, be, and the same is hereby amended to read as follows:

31-3201. CLERK OF DISTRICT COURT -- FEES. (1) The clerk of the district court shall lawfully charge, demand and receive the following fees for services rendered by him in discharging the duties imposed upon him by law:

- For filing and docketing abstract or transcript of judgment from another court \$2.00
- For issuing execution upon an abstract or transcript of judgment and filing same on return \$2.00
- For recording execution issued upon abstract or transcript of judgment, per page \$2.00
- For taking affidavits, including jurat \$1.00
- For taking acknowledgments, including seal \$1.00
- For filing and indexing designation of agent of foreign corporation ...
..... \$2.00
- For filing and indexing notarial statement \$2.00
- For making copy of any file or record, by the clerk, the clerk shall charge and receive, per page \$1.00
- For comparing and conforming a prepared copy of any file or record, the clerk shall charge and receive, per page \$.50
- For certifying the same an additional fee for certificate and seal
..... \$1.00
- For all services not herein enumerated, and of him lawfully required, the clerk of the district court shall demand and receive such fees as are herein allowed for similar services.

(2) All fees collected under the provisions of this section shall be paid over to the county treasurer, at the same time and in the same manner as other fees.

(3) In addition to all other fines, forfeitures and costs levied by the court, the clerk of the district court shall collect ten dollars (\$10.00) as an administrative surcharge fee on each criminal case, and five dollars (\$5.00) on each infraction to be paid over to the county treasurer at the same time and in the same manner as other fees, for the support of the county justice fund, or the current expense fund if no county justice fund has been established, and shall collect ten dollars (\$10.00) as an administrative surcharge fee on each civil case, including each appeal, to be paid over to the county treasurer for the support of the county court facilities fund, or to the district court fund if no county court facilities fund has been established.

(4) Provided further, an additional handling fee of two dollars (\$2.00) shall be imposed on each monthly installment of criminal or infraction fines, forfeitures, and other costs paid on a monthly basis.

(5) Provided further, in addition to all other fines, forfeitures and costs levied by the court, the clerk of the district court shall collect ten dollars (\$10.00) as an ~~Idaho Statewide Trial Court Automated Records System (ISTARS)~~ court technology fee on each criminal and infraction offense to be paid over to the county treasurer who shall, within five (5) days after the end of the month, pay such fee to the state treasurer for deposit into the ISTARS court technology fund.

SECTION 6. That Section 31-3201A, Idaho Code, be, and the same is hereby amended to read as follows:

31-3201A. COURT FEES. The clerk of the district court in addition to the fees and charges imposed by chapter 20, title 1, Idaho Code, and by section 31-3201, Idaho Code, and in addition to the fee levied by chapter 2, title 73, Idaho Code, shall charge, demand and receive the following fees for services rendered by him in discharging the duties imposed upon him by law:

(1) Civil cases. A fee of fifty one hundred seventy-five dollars (~~\$1750.00~~) for filing a civil case of any type in the district court ~~or in,~~ except for those cases to be assigned to the magistrate's division of the district court for which the fee shall be one hundred twenty dollars (\$120), with the following exceptions:

(a) The fee for small claims shall be as provided in section 1-2303, Idaho Code;

(b) No filing fee shall be charged in the following types of cases:

- (i) Cases brought under chapter 3, title 66, Idaho Code, for commitment of mentally ill persons;
- (ii) Cases brought under the juvenile corrections act;
- (iii) Cases brought under the child protective act;
- (iv) Demands for bond before a personal representative is appointed in probate;
- (v) Petitions for sterilization;
- (vi) Petitions for judicial consent to abortion;
- (vii) Registration of trusts and renunciations;
- (viii) Petitions for leave to compromise the disputed claim of a minor;
- (ix) Petitions for a civil protection order or to enforce a foreign civil protection order pursuant to chapter 63, title 39, Idaho Code;
- (x) Objections to the appointment of a guardian filed by a minor or an incapacitated person;
- (xi) Proceedings to suspend a license for nonpayment of child support pursuant to section 7-1405, Idaho Code;
- (xii) Proceedings under the uniform post-conviction procedure act as provided in chapter 49, title 19, Idaho Code;
- (xiii) Filings of a custody decree from another state;

(xiv) Filings of any answer after an initial appearance fee has been paid.

The filing fee of ~~fifty dollars~~ (\$50.00) shall be distributed as follows: seventeen dollars (\$17.00) of such filing fee shall be paid to the county treasurer for deposit in the district court fund of the county; ten one hundred thirty-five dollars (~~\$1035.00~~) of such filing fee, or in a case assigned to the magistrate division of the district court eighty dollars (\$80.00) of such filing fee, shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit into the ISTARS court technology fund; seventeen dollars (\$17.00) of such filing fee shall be paid to the county treasurer who shall pay such fees to the state treasurer for deposit in accordance with subsection (15) of this section; and six dollars (\$6.00) of such filing fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the senior magistrate judges fund.

(2) Felonies and misdemeanors. A fee of seventeen dollars and fifty cents (\$17.50) shall be paid, but not in advance, by each person found guilty of any felony or misdemeanor, except when the court orders such fee waived because the person is indigent and unable to pay such fee. If the magistrate court facilities are provided by the county, five dollars (\$5.00) of such fee shall be paid to the county treasurer for deposit in the district court fund of the county; and twelve dollars and fifty cents (\$12.50) of such fee shall be paid to the county treasurer who shall pay such fees to the state treasurer for deposit in accordance with subsection (15) of this section. If the magistrate court facilities are provided by a city, five dollars (\$5.00) of such fee shall be paid to the city treasurer for deposit in the city general fund, two dollars and fifty cents (\$2.50) of such fee shall be paid to the city treasurer for deposit in the city capital facilities fund for the construction, remodeling and support of magistrate court facilities, and ten dollars (\$10.00) of such fee shall be paid to the county treasurer who shall pay such fees to the state treasurer for deposit in accordance with subsection (15) of this section.

(3) Infractions. A fee of sixteen dollars and fifty cents (\$16.50) shall be paid, but not in advance, by each person found to have committed an infraction or any minor traffic, conservation or ordinance violation; provided that the judge or magistrate may in his or her discretion consolidate separate nonmoving traffic offenses into one (1) offense for purposes of assessing such fee. If the magistrate court facilities are provided by the county, five dollars (\$5.00) of such fee shall be paid to the county treasurer for deposit in the district court fund of the county; and eleven dollars and fifty cents (\$11.50) of such fee shall be paid to the county treasurer, who shall pay such fees to the state treasurer for deposit in accordance with subsection (15) of this section. If the magistrate court facilities are provided by a city, five dollars (\$5.00) of such fee shall be paid to the city treasurer for deposit in the city general fund, two dollars and fifty cents (\$2.50) of such fee shall be paid to the city treasurer for deposit in the city capital facilities fund for the construction, remodeling and support of magistrate court facilities, and nine dollars (\$9.00) of such fee shall be paid to the county treasurer who shall pay such fees to the state treasurer for deposit in accordance with subsection (15) of this section.

(4) Initial appearance other than plaintiff. A fee of thirty one hundred dollars (~~\$3100.00~~) shall be paid for any filing constituting the initial appearance by a party, except the plaintiff, in any civil action in the district court or in the magistrate's division of the district court, except small claims. If two (2) or more parties are making their initial appearance in the same filing, then only one (1) filing fee shall be collected. Of such fee, four dollars (\$4.00) shall be paid to the county treasurer for deposit in the district court fund of the county; ten eighty dollars (~~\$180.00~~)

of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit into the ISTARS court technology fund; ten dollars (\$10.00) of such fee shall be paid to the county treasurer who shall pay such fees to the state treasurer for deposit in accordance with subsection (15) of this section; and six dollars (\$6.00) of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the senior magistrate judges fund.

(5) Accountings. A fee of nine dollars (\$9.00) shall be paid by the person or persons required to make an account pursuant to ~~either chapter 11 or chapter 18~~, title 15, Idaho Code, at the time such account is filed. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(6) Distribution of estate. A fee of twenty-five dollars (\$25.00) shall be paid upon the filing of a petition of the executor or administrator or of any person interested in an estate for the distribution of such estate, six dollars (\$6.00) of such fee shall be paid to the county treasurer for deposit in the district court fund of the county; thirteen dollars (\$13.00) of such fee shall be paid to the county treasurer who shall pay such fees to the state treasurer for deposit in accordance with subsection (15) of this section; and six dollars (\$6.00) of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the senior magistrate judges fund.

(7) Third party claim. A fee of fourteen dollars (\$14.00) shall be paid by a party filing a third party claim as defined in the Idaho rules of civil procedure. Eight dollars (\$8.00) of such fee shall be paid to the county treasurer for deposit in the district court fund of the county; and six dollars (\$6.00) of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the senior magistrate judges fund.

(8) Cross-claims. A fee of fourteen dollars (\$14.00) shall be paid by any party filing a cross-claim. Eight dollars (\$8.00) of such fee shall be paid to the county treasurer for deposit in the district court fund of the county; and six dollars (\$6.00) of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the senior magistrate judges fund.

(9) Change of venue. A fee of twenty-nine dollars (\$29.00) shall be paid by a party initiating a change of venue. Such fee shall be paid to the clerk of the court of the county to which venue is changed. All Nine dollars (\$9.00) of such fee shall be paid to the county treasurer for deposit in the district court fund of the county and twenty dollars (\$20.00) of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit into the court technology fund.

(10) Reopening a case.

(a) A fee of fifteen eighty-five dollars (\$185.00) shall be paid by any party appearing after judgment or applying to reopen a case. Nine dollars (\$9.00) of such fee shall be paid to the county treasurer for deposit in the district court fund of the county; and six dollars (\$6.00) of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the senior magistrate judges fund; and seventy dollars (\$70.00) of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit into the court technology fund.

(b) A fee of thirty-eight one hundred eight dollars (\$3108.00) shall be paid by a party applying to reopen a divorce action or modify a divorce decree, with seventeen dollars (\$17.00) of the fee to be paid to the county treasurer for deposit in the district court fund of the county;

fifteen dollars (\$15.00) of such fee to be paid to the county treasurer who shall pay such fees to the state treasurer for deposit in accordance with subsection (15) of this section; and six dollars (\$6.00) of such fee to be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the senior magistrate judges fund; and seventy dollars (\$70.00) of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit into the court technology fund.

(c) When the application to reopen a case consists only of a motion or other pleading to revive or renew a judgment, a fee of twenty-nine dollars (\$29.00) shall be paid by the party filing the motion or pleading. Nine dollars (\$9.00) of such fee shall be paid to the county treasurer for deposit in the district court fund of the county and twenty dollars (\$20.00) of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit into the court technology fund.

(11) Appeal to district court. A fee of ~~fifteen~~ thirty-five dollars (\$~~135.00~~ 135.00) shall be paid by a party taking an appeal from the magistrate's division of the district court to the district court; and nine dollars (\$9.00) of such fee shall be paid to the county treasurer for deposit in the district court fund of the county; six dollars (\$6.00) of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the senior magistrate judges fund; and twenty dollars (\$20.00) of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit into the court technology fund. No additional fee shall be required if a new trial is granted. ~~All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.~~

(12) Appeal to supreme court. A fee of ~~fifteen~~ thirty-five dollars (\$~~135.00~~ 135.00) shall be paid by the party taking an appeal from the district court to the supreme court for comparing and certifying the transcript on appeal, if such certificate is required. Nine dollars (\$9.00) of such fee shall be paid to the county treasurer for deposit in the district court fund of the county; and six dollars (\$6.00) of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the senior magistrate judges fund; and twenty dollars (\$20.00) of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit into the court technology fund.

(13) Fees not covered by this section, including fees to defray the costs of electronic access to court records other than the register of actions, shall be set by rule or administrative order of the supreme court.

(14) All fees required to be paid by this section or by rule or administrative order of the supreme court shall be collected by the clerk of the district court or by a person appointed by the clerk of the district court for this purpose. If it appears that there is a necessity for such fees to be collected by persons other than the clerk of the district court or a person designated by the clerk for such purpose, the supreme court by rule or administrative order may provide for the designation of persons authorized to receive such fees. Persons so designated shall account for such fees in the same manner required of the clerk of the district court and shall pay such fees to the clerk of the district court of the county in which such fees are collected.

(15) That portion of the filing fees required to be remitted to the state treasurer for deposit pursuant to subsections (1), (2), (3), (4), (6) and (10) of this section shall be apportioned eighty-six percent (86%) to the state general fund and fourteen percent (14%) to the peace officers stan-

dards and training fund authorized in section 19-5116, Idaho Code, within five (5) days after the end of the month in which such fees were remitted to the county treasurer. That portion of the filing fees required to be remitted to a city treasurer for deposit in the city's general fund shall be remitted within five (5) days after the end of the month in which such fees were remitted to the county treasurer.

(16) Of the fees derived from the filing of any divorce action required to be transmitted to the state treasurer, the county treasurer shall retain five dollars (\$5.00), which shall be separately identified and deposited in the district court fund of the county. Such moneys shall be used exclusively for the purpose of establishing a uniform system of qualifying and approving persons, agencies or organizations to conduct evaluations of persons convicted of domestic assault or battery as provided in section 18-918, Idaho Code, and the administration of section 18-918(7), Idaho Code, relating to the evaluation and counseling or other treatment of such persons, including the payment of the costs of evaluating and counseling or other treatment of an indigent defendant. No provision of chapter 52, title 39, Idaho Code, shall apply to the moneys provided for in this subsection.

(17) In consideration of the aforesaid fees, the clerk of the district court shall be required to perform all lawful service that may be required of him by any party thereto; provided, that he shall not prepare and furnish any certified copy of any file or record in an action except printed transcript on appeal, without additional compensation as provided by law.

SECTION 7. That Section 31-3201H, Idaho Code, be, and the same is hereby amended to read as follows:

31-3201H. ~~EMERGENCY SURCHARGE FEE.~~ (1) The court shall charge an emergency surcharge fee to be paid by each defendant for each criminal offense or infraction, committed on or after April 15, 2010, for which the defendant is found or pleads guilty. Such fee shall be in addition to all other fines and fees levied.

(2) The amount of the emergency surcharge fee shall be as follows:

- (a) For each felony, the fee shall be one hundred dollars (\$100);
- (b) For each misdemeanor, the fee shall be fifty dollars (\$50.00); and
- (c) For each infraction, the fee shall be ten dollars (\$10.00).

(3) The fee shall be collected by the clerk of the district court and shall be paid to the county treasurer, who shall, within five (5) days after the end of the month, pay such fees to the state treasurer, who shall deposit eighty percent (80%) of such fees in the drug court, mental health court and family court services fund created by section 1-1625, Idaho Code, and twenty percent (20%) of such fees in the ~~Idaho statewide trial court automated records system (ISTARS)~~ court technology fund created by section 1-1623, Idaho Code.

SECTION 8. That Section 31-3221, Idaho Code, be, and the same is hereby amended to read as follows:

31-3221. PAYMENTS TO COURT BY CREDIT CARD OR DEBIT CARD. (1) The clerk of the district court may accept payment of a debt owed to the court by a credit card or debit card. Any person making payment on a debt owed to the court by a credit card or debit card shall be assessed an electronic payment convenience fee established by the supreme court, which shall include, among other costs, the amount charged the court by the issuer for the use of the card. This fee may also be paid by credit card or debit card and included in the transaction for the payment of the debt owed to the court. The electronic payment convenience fee shall be separate from the debt owed to the court and shall be deposited into the ~~ISTARS~~ court technology fund created in section 1-1623, Idaho Code, and shall be used for the implementation of the

provisions of this section. The debt owed to the court shall not be expunged, canceled, released, discharged or satisfied and any receipt or other evidence of payment shall be deemed conditional until the court has received final and unconditional payment of the full amount due from the financing agency or card issuer for the transaction. If an electronic payment once made is subsequently denied, revoked or otherwise canceled for any reason, and the payment is withdrawn from the court, the court may proceed as though payment had never been made.

(2) Definitions. As used in this section:

(a) "Cardholder" means the person or organization named on the face of a credit card or debit card to whom or for whose benefit the credit card or debit card is issued by an issuer.

(b) "Credit card" means any instrument or device, whether known as a credit card or credit plate or by any other name, issued with or without a fee by an issuer for the use of the cardholder in obtaining money, property, goods, services or anything else of value on credit.

(c) "Debit card" means any instrument or device, whether known as a debit card or by any other name, issued with or without a fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds.

(d) "Debt owed to the court" means any assessment of fines, court costs, surcharges, penalties, fees, restitution, cash deposit of bail, moneys expended in providing counsel and other defense services to indigent defendants, or other charges which a court judgment has ordered to be paid to the court or which a party has agreed to pay in criminal or civil cases and includes any interest or penalty on such unpaid amounts as provided for in the judgment or by law.

(e) "Issuer" means a business organization, financial institution or authorized agent of a business organization or financial institution that issues a credit card or debit card.

(3) The supreme court may adopt rules as deemed appropriate for the administration of this section and may enter into contracts with an issuer or other organization to implement the provisions of this section.

Approved March 26, 2014

CHAPTER 191
(H.B. No. 540)

AN ACT

RELATING TO ADMINISTRATIVE RULES; AMENDING SECTION 67-5224, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO A STATEMENT THAT A PENDING RULE MAY BE AMENDED OR MODIFIED BY CONCURRENT RESOLUTION AND TO REMOVE LANGUAGE RELATING TO WHEN THE LEGISLATURE AMENDS OR MODIFIES A PENDING RULE; AMENDING SECTION 67-5226, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO RULES AMENDED OR MODIFIED BY CONCURRENT RESOLUTION; AMENDING SECTION 67-5291, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO AMENDING OR MODIFYING AN AGENCY RULE; AND AMENDING SECTION 67-5292, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO RULES THAT MAY BE EXTENDED IN WHOLE OR IN PART AND TO REMOVE LANGUAGE RELATING TO THE APPLICATION OF LAW.

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

SECTION 1. That Section 67-5224, Idaho Code, be, and the same is hereby amended to read as follows:

67-5224. PENDING RULE -- FINAL RULE -- EFFECTIVE DATE. (1) Prior to the adoption, amendment, or repeal of a rule, the agency shall consider fully all written and oral submissions respecting the proposed rule.

(2) Subject to the provisions of subsection (3) of this section, the agency shall publish the text of a pending rule and a notice of adoption of the pending rule in the bulletin. The notice of adoption of the pending rule shall consist of a concise explanatory statement containing:

(a) Reasons for adopting the rule;

(b) A statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for any changes;

(c) The date on which the pending rule will become final and effective, as provided in subsection (5) of this section, and a statement that the pending rule may be rejected, ~~amended or modified~~ by concurrent resolution of the legislature;

(d) An identification of any portion of the pending rule imposing or increasing a fee or charge and a statement that this portion of the rule shall not become final and effective unless affirmatively approved by concurrent resolution of the legislature;

(e) The specific statutory authority for the rulemaking including a citation to the specific section of the Idaho Code that has occasioned the rulemaking, or the federal statute or regulation if that is the basis of authority or requirement for the rulemaking; and

(f) Except as otherwise required in paragraph (g) of this subsection, a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year when the pending rule will become effective; provided however, that notwithstanding section 67-5231, Idaho Code, the absence or accuracy of a fiscal impact statement provided pursuant to this paragraph shall not affect the validity or the enforceability of the rule; or

(g) If a notice of proposed rulemaking of the Idaho state tax commission, a specific description of any negative or positive fiscal impact greater than ten thousand dollars (\$10,000) during the fiscal year when the pending rule will become effective; provided however, notwithstanding section 67-5231, Idaho Code, the absence or accuracy of a fiscal impact statement provided pursuant to this paragraph shall not affect the validity or the enforceability of the rule.

(3) With the permission of the coordinator, the agency need not publish in full the text of the pending rule if no significant changes have been made from the text of the proposed rule as published in the bulletin, but the notice of adoption of the pending rule must cite the volume of the bulletin where the text is available and note all changes that have been made.

(4) An agency shall not publish a pending rule until at least seven (7) days after the close of all public comment.

(5) (a) Except as set forth in sections 67-5226 and 67-5228, Idaho Code, a pending rule shall become final and effective upon the conclusion of the legislative session at which the rule was submitted to the legislature for review, or as provided in the rule, but no pending rule adopted by an agency shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. A rule which is final and effective may be applied retroactively, as provided in the rule.

(b) When the legislature approves, ~~amends or modifies~~ a pending rule pursuant to section 67-5291, Idaho Code, the rule shall become final and effective upon adoption of the concurrent resolution or such other date specified in the concurrent resolution.

(c) Except as set forth in sections 67-5226 and 67-5228, Idaho Code, no pending rule or portion thereof imposing a fee or charge of any kind

shall become final and effective until it has been approved, ~~amended or modified~~ by concurrent resolution.

(6) Each agency shall provide the administrative rules coordinator with a description of any pending rule or portion thereof imposing a new fee or charge or increasing an existing fee or charge, along with a citation of the specific statute authorizing the imposition or increase of the fee or charge. The administrative rules coordinator shall provide the legislature with a compilation of the descriptions provided by the agencies.

(7) At the conclusion of the legislative session or as soon thereafter as is practicable, the coordinator shall publish the date upon which the legislature adjourned sine die and rules became effective and a list of final rules becoming effective on a different date, as provided in section 67-5224(5), Idaho Code, and temporary rules remaining in effect as provided in section 67-5226(3), Idaho Code.

SECTION 2. That Section 67-5226, Idaho Code, be, and the same is hereby amended to read as follows:

67-5226. TEMPORARY RULES. (1) If the governor finds that:

- (a) Protection of the public health, safety, or welfare; or
- (b) Compliance with deadlines in amendments to governing law or federal programs; or
- (c) Conferring a benefit;

requires a rule to become effective before it has been submitted to the legislature for review the agency may proceed with such notice as is practicable and adopt a temporary rule, except as otherwise provided in section 67-5229(1)(d), Idaho Code. The agency may make the temporary rule immediately effective. The agency shall incorporate the required finding and a concise statement of its supporting reasons in each rule adopted in reliance upon the provisions of this subsection.

(2) A rule adopted pursuant to subsection (1) of this section which imposes a fee or charge may become effective under this section before it has been approved, ~~amended or modified~~ by concurrent resolution only if the governor finds that the fee or charge is necessary to avoid immediate danger which justifies the imposition of the fee or charge.

(3) In no case shall a rule adopted pursuant to this section remain in effect beyond the conclusion of the next succeeding regular session of the legislature unless the rule is approved, ~~amended or modified~~ by concurrent resolution, in which case the rule may remain in effect until the time specified in the resolution or until the rule has been replaced by a final rule which has become effective as provided in section 67-5224(5), Idaho Code.

(4) Temporary rules shall be published in the first available issue of the bulletin.

(5) Temporary rules are not subject to the requirements of section 67-5223, Idaho Code, provided that the administrative rules coordinator sends a copy of the temporary rules to the director of the legislative services office.

(6) Concurrently with the promulgation of a rule under this section, or as soon as reasonably possible thereafter, an agency shall commence the promulgation of a proposed rule in accordance with the rulemaking requirements of this chapter, unless the temporary rule adopted by the agency will expire by its own terms or by operation of law before the proposed rule could become final.

SECTION 3. That Section 67-5291, Idaho Code, be, and the same is hereby amended to read as follows:

67-5291. LEGISLATIVE REVIEW OF RULES. The standing committees of the legislature may review temporary, pending and final rules which have been

published in the bulletin or in the administrative code. If reviewed, the standing committee which reviewed the rules shall report to the membership of the body its findings and recommendations concerning its review of the rules. If ordered by the presiding officer, the report of the committee shall be printed in the journal. A concurrent resolution may be adopted approving the rule, or rejecting, ~~amending or modifying~~ the rule where it is determined that the rule violates the legislative intent of the statute under which the rule was made, or where it is determined that any rule previously promulgated and reviewed by the legislature shall be deemed to violate the legislative intent of the statute under which the rule was made. The rejection, ~~amendment or modification~~ of a rule by the legislature via concurrent resolution shall prevent the agency's intended action from remaining in effect beyond the date of the legislative action. It shall be the responsibility of the secretary of state to immediately notify the affected agency of the filing and effective date of any concurrent resolution enacted to approve, ~~amend, modify,~~ or reject an agency rule and to transmit a copy of the concurrent resolution to the director of the agency for promulgation. The agency shall be responsible for implementing legislative intent as expressed in the concurrent resolution, including, as appropriate, the reinstatement of the prior rule, if any, in the case of legislative rejection of a new rule, ~~or the incorporation of any legislative amendments to a new rule. If a rule has been amended or modified by the legislature, the agency shall republish the rule in accordance with the provisions of chapter 52, title 67, Idaho Code, reflecting the action taken by the legislature and the effective date thereof.~~ If a rule has been rejected by the legislature, the agency shall publish notice of such rejection in the bulletin. Except as provided in section 67-5226, Idaho Code, with respect to temporary rules, every rule promulgated within the authority conferred by law, and in accordance with the provisions of chapter 52, title 67, Idaho Code, and made effective pursuant to section 67-5224(5), Idaho Code, shall remain in full force and effect until the same is rejected, ~~amended or modified~~ by concurrent resolution, or until it expires as provided in section 67-5292, Idaho Code, or by its own terms.

SECTION 4. That Section 67-5292, Idaho Code, be, and the same is hereby amended to read as follows:

67-5292. EXPIRATION OF ADMINISTRATIVE RULES. (1) Notwithstanding any other provision of this chapter to the contrary, every rule adopted and becoming effective after June 30, 1990, shall automatically expire on July 1 of the following year unless the rule is extended by statute. Extended rules shall then continue to expire annually on July 1 of each succeeding year unless extended by statute in each such succeeding year.

(2) All rules adopted prior to June 30, 1990, shall expire on July 1, 1991, unless extended by statute. Thereafter, any rules which are extended shall then continue to expire annually on July 1 of each succeeding year unless extended by statute in each succeeding year.

(3) ~~Rules adopted and becoming effective pursuant to this chapter may be extended in whole or in part. When any part of an existing rule is amended, then that entire rule shall be subject to the provisions of this section.~~

(4) This section is a critical and integral part of this chapter. If any portion of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall be deemed to affect all rules adopted subsequent to the effective date of this act and such rules shall be deemed null, void and of no further force and effect.