

**GENERAL LAWS**  
**OF THE**  
**STATE OF IDAHO**



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

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**Volume 2**

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

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CHAPTER 251  
(S.B. No. 1127)

AN ACT

RELATING TO BINGO AND RAFFLES; AMENDING SECTION 67-7701, IDAHO CODE, TO REVISE THE PURPOSE AND POLICY RELATING TO BINGO GAMES AND RAFFLES; AMENDING SECTION 67-7702, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 67-7704, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE REGARDING THE BINGO-RAFFLE ADVISORY BOARD AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-7706, IDAHO CODE, TO REVISE POWERS AND DUTIES OF THE BINGO-RAFFLE ADVISORY BOARD; AMENDING SECTION 67-7707, IDAHO CODE, TO PROVIDE A PER VIOLATION PENALTY, TO REMOVE LANGUAGE PROHIBITING PERSONS UNDER THE AGE OF EIGHTEEN TO PLAY BINGO IN ANY GAME OPERATED BY A LICENSED CHARITABLE OR NONPROFIT ORGANIZATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-7708, IDAHO CODE, TO REVISE LANGUAGE REGARDING THE LIMIT ON SESSIONS AND BINGO PRIZES; AMENDING SECTION 67-7709, IDAHO CODE, TO REVISE PROVISIONS RELATING TO ACCOUNTING AND USE OF BINGO PROCEEDS; AMENDING SECTION 67-7710, IDAHO CODE, TO REVISE PROVISIONS REGARDING RAFFLES AND DUCK RACES AND TO REMOVE REFERENCE TO HOLIDAY CHRISTMAS TREE FUNDRAISERS; AMENDING SECTION 67-7711, IDAHO CODE, TO REVISE THE LICENSING PROCEDURE; AMENDING SECTION 67-7712, IDAHO CODE, TO REVISE PROVISIONS REGARDING LICENSE SUSPENSION OR REVOCATION; AMENDING SECTION 67-7713, IDAHO CODE, TO INCREASE THE AMOUNT OF MAXIMUM AGGREGATE VALUE OF MERCHANDISE BEFORE A CHARITABLE OR NONPROFIT ORGANIZATION CONDUCTING A RAFFLE MUST BE REQUIRED TO OBTAIN A LICENSE; AND AMENDING SECTION 67-7715, IDAHO CODE, TO REVISE PROVISIONS REGARDING VENDORS, LICENSING AND FEES.

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

SECTION 1. That Section 67-7701, Idaho Code, be, and the same is hereby amended to read as follows:

67-7701. PURPOSE AND POLICY. It is hereby declared that all bingo games and raffles in Idaho must be strictly controlled and administered, and it is in the public interest for the state to provide for the administration of charitable bingo games and raffles to protect the public from fraudulently conducted bingo games and raffles, to assure that charitable groups and institutions realize the profits from these games, to prohibit professionals conducting bingo games or raffles for fees or a percentage of the profit and to provide that all expenditures by a charitable or nonprofit organization in conducting bingo games and raffles are in the best interest of raising moneys for charitable purposes.

SECTION 2. That Section 67-7702, Idaho Code, be, and the same is hereby amended to read as follows:

67-7702. DEFINITIONS. As used in this chapter:

(1) "Bingo" means the traditional game of chance played for a prize determined prior to the start of the game.

(a) Upon approval by the bingo-raffle advisory board a licensee may offer bingo games in which players are allowed to select their own numbers if the cards used to conduct the games have controls that provide an audit trail adequate to determine all winning number combinations.

(b) Card-minding devices are prohibited. Autodaubing features are prohibited.

(c) Bingo shall not include "instant bingo" which is a game of chance played by the selection of one (1) or more prepackaged bingo cards, with

the winner determined by the appearance of a preprinted winning designation on the bingo card.

(2) "Bingo-raffle advisory board" means a board of six (6) persons chosen by the governor to make advisory recommendations regarding bingo and raffle operations and regulation in Idaho.

(3) "Charitable organization" means an organization that has been in continuous existence in the county of operation of the charitable bingo game or raffle for at least one (1) year, that conducts charitable activities, and that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(8), 501(c)(10), 501(c)(19) or 501(d) of the Internal Revenue Code and is exempt from income taxation under title 63, Idaho Code, as a bona fide nonprofit charitable, civic, religious, fraternal, patriotic or veterans organization or as a nonprofit volunteer fire department, or as a nonprofit volunteer rescue squad, or as a nonprofit volunteer educational booster group, parent-teacher organization or association. If the organization has local branches or chapters, the term "charitable organization" means the local branch or chapter operating the bingo or raffle game.

(4) "Commission" means the Idaho state lottery commission as defined in section 67-7404, Idaho Code.

(5) "Duck race" means a charitable raffle played by releasing numbered, inanimate toys (ducks) into a body of moving water. A person who has been assigned the same number as the first duck to cross a predetermined point in the water (the finish line) is the winner. Other prizes may be awarded on the basis of the order in which the ducks cross the finish line. With the exception of determining "net proceeds," all restrictions and requirements applicable to the conduct of charitable raffles in this chapter shall also apply to the conduct of duck races.

(6) "Electronic bingo card" or "face" means an electronic facsimile of a bingo card or face, from a permutation of bingo cards formulated by a manufacturer licensed in Idaho, which is stored and/or displayed in a bingo card-monitoring device. An electronic bingo card or face is deemed to be a form of disposable paper bingo card.

(7) (a) "Electronic bingo device" means an electronic device used by a bingo player to monitor bingo cards purchased at the time and place of a licensed organization's bingo session, and which:

- (i) Provides a means for bingo players to input numbers announced by a bingo caller;
- (ii) Requires the player to manually enter the numbers as they are announced by a bingo caller;
- (iii) Compares the numbers entered by the bingo player to the numbers contained on bingo cards previously stored in the electronic database of the device;
- (iv) Identifies winning bingo patterns; and
- (v) Signals only the bingo player when a winning bingo pattern is achieved.

(b) "Electronic bingo device" does not mean or include any device into which coins, currency, or tokens are inserted to activate play, or any device which is interfaced with or connected to any host system which can transmit or receive any ball call information, site system or any other type of bingo equipment once the device has been activated for use by the bingo player.

(8) "Gross revenues" means all moneys paid by players during a bingo game or session for the playing of bingo or raffle events and does not include money paid for concessions; provided that the expenses of renting electronic bingo devices from a licensed vendor and the fees collected from players for the use of electronic bingo devices must be reported separately on the organization's annual bingo report and must be netted for purposes of determining gross revenues as follows: only fees collected from players in excess of the rental charges paid to licensed vendors will be considered to be a part of

gross revenues, and if the costs of renting electronic bingo devices from a licensed vendor exceed the fees collected from players for use of electronic bingo devices, the difference will be considered an administrative expense for purposes of section 67-7709(1)(d), Idaho Code.

~~(9) "Holiday Christmas tree fundraiser" means a charitable raffle played by persons bidding on decorated holiday trees with the proceeds being utilized for senior citizen centers or hospitals or hospital auxiliaries. With the exception of determining "net proceeds," all restrictions and requirements applicable to the conduct of charitable raffles in this chapter shall also apply to the conduct of holiday Christmas tree fundraisers.~~

~~(10) "Host system" means the computer hardware, software and peripheral equipment of a licensed manufacturer which is used to generate and download electronic bingo cards to a licensed organization's site system, and which monitors sales and other activities of a site system.~~

~~(110) "Nonprofit organization" means an organization incorporated under chapter 3, title 30, Idaho Code.~~

~~(121) "Organization" means a charitable organization or a nonprofit organization.~~

~~(132) "Person" shall be construed to mean and include an individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" shall also be construed to mean and include departments, commissions, agencies and instrumentalities of the state of Idaho, including counties and municipalities and agencies or instrumentalities thereof.~~

~~(143) "Raffle" means a game in which the prize is won by random drawing of the name or number of one (1) or more persons purchasing chances.~~

~~(154) "Session" means a period of time not to exceed eight (8) hours in any one (1) day in which players are allowed to participate in bingo games operated by a charitable or nonprofit organization.~~

~~(165) "Site system" means the computer hardware, software and peripheral equipment used by a licensed organization at the site of its bingo session which provides electronic bingo cards or bingo card monitoring devices to players, and which receipts the sale or rental of such cards and devices and generates reports relative to such sales or rentals.~~

~~(17) "Special permit" means a permit that can be obtained by a charitable organization that is not licensed but qualifies to operate an exempt bingo operation. This permit allows a qualifying organization to operate bingo games at a county fair for the duration of the fair.~~

~~(186) "Vendor" means an applicant, licensee or manufacturer, distributor or supplier licensed or unlicensed that furnishes or supplies bingo or raffle equipment, disposable or nondisposable cards and any and all related gaming equipment.~~

SECTION 3. That Section 67-7704, Idaho Code, be, and the same is hereby amended to read as follows:

67-7704. BINGO-RAFFLE ADVISORY BOARD -- MEMBERS -- APPOINTMENT -- QUALIFICATIONS. (1) The bingo-raffle advisory board shall consist of six (6) members appointed by the governor and confirmed by the senate. Members shall be selected and appointed because of their ability and disposition to serve the state's interest and for knowledge of bingo and raffle operations. Members appointed by the governor shall serve at the pleasure of the governor, and ~~must~~ shall be residents over twenty-five (25) years of age who have experience in administrating, conducting or regulating bingo or raffle operations. There shall be one (1) member from each of the following six (6) districts initially established as follows:

(a) District No. 1. The counties of Benewah, Bonner, Boundary, Kootenai and Shoshone.

(b) District No. 2. The counties of Clearwater, Idaho, Latah, Lewis and Nez Perce.

(c) District No. 3. The counties of Ada, Adams, Boise, Canyon, Elmore, Gem, Payette, Owyhee, Valley and Washington.

(d) District No. 4. The counties of Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls.

(e) District No. 5. The counties of Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida and Power.

(f) District No. 6. The counties of Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison and Teton.

(2) The terms of appointed members of the bingo-raffle advisory board shall be three (3) years, ~~except that the members first appointed shall be those serving as members of the bingo advisory board on July 1, 2000, each to hold office for the balance of his or her term for which appointed which shall be as follows:~~

~~The terms of the members from District No. 1 and District No. 4 shall expire the first Monday of January 2001.~~

~~The terms of the members from District No. 2 and District No. 5 shall expire the first Monday of January 2002.~~

~~The terms of the members from District No. 3 and District No. 6 shall expire the first Monday of January 2003.~~ At the end of a term, a member continues to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies. A vacancy of the board shall be filled in the same manner as regular appointments are made, and the term shall be for the unexpired portion of the regular term. No member of the board shall have a direct or indirect pecuniary interest in any contract or agreement entered into by the board. No more than three (3) members of the board shall belong to the same political party.

SECTION 4. That Section 67-7706, Idaho Code, be, and the same is hereby amended to read as follows:

67-7706. BINGO-RAFFLE ADVISORY BOARD -- POWERS -- DUTIES. The bingo-raffle advisory board shall review the operation and regulation of bingo games and raffle events in Idaho, and shall make recommendations to the state lottery commission regarding, but not limited to, the following issues:

(1) The issuances of licenses for the operation of bingo games and raffle events, including the denial, suspension or revocation of licenses;

(2) The collection of fees, penalties, fines and other moneys from organizations conducting or applying to conduct bingo games and/or raffle events;

(3) The maintenance by bingo operators of records and the efficacy of the statutes and rules requiring maintenance of records;

(4) The recordation and reporting of income from bingo games and raffle events to the state lottery commission, and the efficacy of the statutes and rules governing recordation and reporting;

(5) The efficacy and profitability of income and expenditure limits placed on organizations, by statute or rule, operating bingo games and/or raffle events in the state;

(6) The type, scope, manner, and frequency of bingo games and/or raffle events conducted in Idaho, and the efficacy of the statutes or rules governing those considerations;

(7) Possible cooperative agreements with county, city, and other local and state agencies that would enhance the safety and profitability of bingo games and/or raffle events;

(8) Possible written agreements or contracts with other states or any agency or contractor of another state for the operation and promotion of joint bingo games and/or raffle events that would enhance the safety and profitability of bingo and raffle operations in Idaho;

(9) What rules should be promulgated by the state lottery commission to ensure the safe, orderly and trustworthy operation of bingo games and/or raffle events in Idaho.

The bingo-raffle advisory board shall, at least twice a year, report to the state lottery commission addressing the operations and activities of the advisory board and the major issues facing bingo operators in the state. The lottery security division shall provide a final annual report shall be provided to the governor, the lottery commission, the president pro tempore of the senate and the speaker of the house of representatives of the Idaho legislature.

SECTION 5. That Section 67-7707, Idaho Code, be, and the same is hereby amended to read as follows:

67-7707. BINGO BY CHARITABLE OR NONPROFIT ORGANIZATIONS. (1) It is lawful for a charitable or nonprofit organization to conduct bingo sessions or games in accordance with the provisions of this chapter and the rules of the state lottery commission. Any charitable or nonprofit organization, any member of a charitable or nonprofit organization, or any person that conducts a bingo session or game in violation of any provision of this chapter or the rules of the state lottery commission may be assessed a civil penalty not in excess of ten thousand dollars (\$10,000) per violation. Additionally, any person knowingly conducting a bingo session or game in violation of the provisions of this chapter or the rules of the state lottery commission may be charged under the gambling laws contained in chapter 38, title 18, Idaho Code. Violations will be prosecuted by the county prosecuting attorney.

(2) No person under the age of eighteen (18) years may play bingo in games where a cash prize is offered or where the prize exceeds twenty-five dollars (\$25.00) in value for merchandise. ~~No person under the age of eighteen (18) may play bingo in any game operated by a licensed charitable or nonprofit organization.~~

SECTION 6. That Section 67-7708, Idaho Code, be, and the same is hereby amended to read as follows:

67-7708. LIMIT ON SESSIONS AND BINGO PRIZES. The number of sessions or games of bingo conducted or sponsored by a charitable or nonprofit organization shall be limited to three (3) sessions per week and such sessions shall not exceed a period of eight (8) hours per day. ~~Until July 1, 1997, the maximum prize in cash or merchandise at fair market value that may be offered or paid for any one (1) game of bingo is one thousand five hundred dollars (\$1,500) and, the maximum aggregate amount of prizes, in cash or merchandise at fair market value that may be offered or paid at any one (1) session of bingo is ten thousand dollars (\$10,000).~~ After July 1, 1997, ~~t~~The maximum prize that may be offered or paid for any one (1) game of bingo, and the maximum aggregate amount of prizes that may be offered or paid for any one (1) session of bingo, shall be set by rule of the state lottery commission. ~~Provided however, that the maximums to be set by the state lottery commission shall not be below the amounts described in this statute.~~

SECTION 7. That Section 67-7709, Idaho Code, be, and the same is hereby amended to read as follows:

## 67-7709. ACCOUNTING AND USE OF BINGO PROCEEDS.

(1) (a) All funds received in connection with a bingo game required to be licensed pursuant to this chapter and the rules of the state lottery commission shall be placed in a separate bank account that is in the name of and controlled by the charitable or nonprofit organization. No funds may be disbursed from this account except the charitable or nonprofit organization may expend proceeds for prizes, advertising, rent including, but not limited to, renting space, chairs, tables, equipment and electronic bingo devices, utilities, rental of electronic bingo devices, and the purchase of supplies and equipment in playing bingo, taxes and license fees related to bingo, the payment of compensation, and for the purposes set forth below for the remaining proceeds.

(b) Funds from bingo accounts must be withdrawn by preprinted, consecutively numbered checks or withdrawal slips, signed by an authorized representative of the licensed authorized organization and made payable to a person. A check or withdrawal slip shall not be made payable to "cash," "bearer" or a fictitious payee. The nature of the payment made shall be noted on the face of the check or withdrawal slip. Checks for the bingo account shall be imprinted with the words "bingo account" and shall contain the organization's bingo license name on the face of each check. A licensed authorized organization shall keep and account for all checks and withdrawal slips, including voided checks and withdrawal slips. Electronic transfers from the bingo account may be used for payments made to another governmental agency.

(c) Any proceeds available in a bingo account after payment of the expenses set forth in paragraph (1) (a) of this subsection shall inure to the charitable or nonprofit organization to be used for religious, charitable, civic, scientific testing, public safety, literary or educational purposes or for purchasing, constructing, maintaining, operating or using equipment or land, or a building or improvements thereto, owned, leased or rented by and for the charitable or nonprofit organization and used for civic purposes or made available by the charitable or nonprofit organization for use by the general public from time to time, or to foster amateur sports competition, or for the prevention of cruelty to children or animals, provided that no proceeds shall be used or expended directly or indirectly to compensate officers or directors. The licensed bingo operation must maintain records for three five (35) years on forms prescribed by the commission or pursuant to rules prescribed by the commission showing the charitable activities to which the proceeds described in this paragraph are applied. No employees of the charitable or nonprofit organization may be compensated from bingo proceeds except as provided in this subsection.

(d) (i) All gross revenues received from bingo games by a charitable or nonprofit organization must be disbursed in the following manner, unless otherwise provided in section 67-7708, Idaho Code: not less than twenty percent (20%) of gross revenues shall be used for charitable purposes enumerated in this subsection, and a maximum of eighteen percent (18%) of the gross revenues may be used for administrative expenses associated with the charitable bingo game. An organization requesting an exemption from the disbursement percentages provided in this paragraph for administrative costs shall request such an exemption from the state lottery commission.

(ii) Two hundred fifty dollars (\$250) or one-tenth of one percent (.1%) of annual gross revenues, as per the previous year's annual bingo report whichever is greater may be paid as wages for the conduct of any one (1) bingo session. Such wages shall be paid on an hourly basis, shall be directly related to the preparation, conduct of and cleaning following a bingo session, and shall be paid out of the organization's separate bank account unless the

director of lottery security has given prior written permission to pay wages out of another account. Such wages shall be part of the eighteen percent (18%) gross revenues used for administrative expenses.

(2) Any charitable or nonprofit organization conducting bingo games pursuant to this chapter shall prepare a statement at the close of its license year and shall file such statement with the state lottery. The statement shall be prepared on a form prescribed by the lottery commission and shall include, at a minimum, the following information:

- (a) The number of bingo sessions conducted or sponsored by the licensed organization;
- (b) The location and date at which each bingo session was conducted;
- (c) The gross revenues of each bingo session;
- (d) The fair market value of any prize given at each bingo session;
- (e) The number of individual players participating in each session;
- (f) The number of cards played in each session;
- (g) The amount paid in prizes at each session;
- (h) The amount paid to the charitable or nonprofit organization;
- (i) All disbursements from bingo revenue and the purpose of those disbursements must be documented on a general ledger and submitted with the annual bingo report to the Idaho lottery commission; and
- (j) An accounting of all gross revenues and the disbursements required by statute and rule of the state lottery commission must be retained in permanent records with the organization, including the date of each transaction and the name and address of each payee for all prize payments in excess of one hundred dollars (\$100) and the disbursements of funds to charitable activities, including the identity of the charity and/or purpose and use of the disbursements by the charity. Such records shall be retained for a period of five (5) years.

(3) Any organization required to be licensed to conduct bingo operations under the provisions of this chapter shall use only nonreusable colored bingo paper or electronic bingo paper so that all sales may be tracked. The nonreusable colored paper must have a series and serial number on each card. At the conclusion of each session, all organizations using nonreusable bingo paper must track their bingo sales per session by recording the series and serial numbers of all paper sold, damaged, donated or used for promotion in that session. Each such organization shall keep a ledger of the numbers of all such papers used during each session. All paper must be tracked as either sold, damaged, donated, used for promotion, or omitted from the original distributor or manufacturer. Paper tracking ledgers and invoices from the distributor or manufacturer for nonrefundable colored bingo paper must be kept with the permanent records for that bingo operation.

(4) Any person who shall willfully or knowingly furnish, supply or otherwise give false information in any statement filed pursuant to this section shall be guilty of a misdemeanor.

(5) All financial books, papers, records and documents of an organization shall be kept as determined by rule of the state lottery and shall be open to inspection by the county sheriff of the county, or the chief of police of the city, or the prosecuting attorney of the county where the bingo game was held, or the attorney general or the state lottery at reasonable times and during reasonable hours.

(6) Every charitable or nonprofit organization whose annual gross revenues exceed two hundred thousand dollars (\$200,000) from the operation of bingo games shall provide the state lottery with a copy of an annual audit of the bingo operation. The audit shall be performed by an independent certified public accountant and who is licensed in the state of Idaho and who meets peer review requirements set forth by the Idaho state board of accountancy. The audit shall be submitted to the Idaho state lottery within ninety (90) days after the end of the license year.



SECTION 8. That Section 67-7710, Idaho Code, be, and the same is hereby amended to read as follows:

67-7710. RAFFLES -- DUCK RACES --- ~~HOLIDAY CHRISTMAS TREE FUNDRAISERS~~. (1) It is lawful for any charitable or nonprofit organization to conduct raffles in accordance with the provisions of this chapter. Any charitable or nonprofit organization ~~who~~ or any person that conducts a raffle in violation of any provision of this chapter may be assessed a civil penalty not in excess of ten thousand dollars (\$10,000) per violation. Additionally, any person knowingly conducting a raffle in violation of any provision of this chapter or rule of the state lottery commission may be charged under the gambling laws of the state contained in chapter 38, title 18, Idaho Code, and may be assessed a civil penalty by the lottery not in excess of ten thousand dollars (\$10,000) per violation. It shall not constitute a violation of state law to advertise a charitable raffle conducted pursuant to this section. It is lawful to participate in a charitable raffle conducted pursuant to this chapter. A charitable raffle conducted lawfully pursuant to this chapter is not gambling for purposes of chapter 38, title 18, Idaho Code.

(2) Raffles drawings must be held in Idaho and shall be limited to twelve (12) per charitable or nonprofit organization per year, provided that this limitation shall not apply to public or private elementary schools, or secondary schools or higher education institutions located in this state. The maximum aggregate value of cash prize(s) that may be offered or paid for any one (1) raffle, which is not a duck race ~~or a holiday Christmas tree fundraiser~~, is one thousand dollars (\$1,000) and if merchandise is used as a prize and it is not redeemable for cash, there shall be no limit on the maximum amount of value for the merchandise. For duck races, there shall be no limit on the maximum amount of the value of a cash prize if the cash prize is underwritten by insurance. If a duck race offers a cash prize that is not underwritten by insurance, the maximum aggregate value of the cash prize(s) is one thousand dollars (\$1,000). ~~There shall be no maximum value on the amount that a tree may be raffled for in a holiday Christmas tree fundraiser.~~ There shall be no limit on the maximum of value for merchandise used as a prize in a duck race ~~or a holiday Christmas tree fundraiser~~ if the merchandise is not redeemable for cash.

(3) As used in this subsection, "net proceeds of a charitable raffle" means the gross receipts less the cost of prizes awarded. "Net proceeds of a duck race" shall mean gross receipts, less the cost of prizes awarded and the rental cost of the ducks used in the race. ~~"Net proceeds of a holiday Christmas tree fundraiser" shall mean the gross receipts less the cost of procuring the trees or other prizes.~~ No less than eighty percent (80%) of the net proceeds of a raffle shall be used by the charitable or nonprofit organization for charitable, religious, educational, civic or other charitable purposes.

(4) Any licensed charitable or nonprofit organization conducting raffles pursuant to this chapter shall prepare a statement at the close of its license year and shall file such statement with the state lottery. The statement shall be prepared on a form prescribed by the lottery commission and shall include, at a minimum, the following information:

- (a) The number of raffles conducted or sponsored by the charitable or nonprofit organization;
- (b) The location and date at which each raffle was conducted;
- (c) The gross revenues of each raffle;
- (d) The fair market value of any prize given at each raffle;
- (e) The amount paid in prizes at each raffle;
- (f) The amount paid to the charitable or nonprofit organization;
- (g) An accounting of all gross revenues and the disbursements required by statute and rule of the state lottery commission that shall be retained in the organization's records for a period of five (5) years.

(5) Every charitable or nonprofit organization whose annual gross revenues exceed two hundred thousand dollars (\$200,000) from the operation of raffle events shall provide the state lottery with a copy of an annual audit of the raffle events. The audit shall be performed by an independent certified public accountant and who is licensed in the state of Idaho and who meets the peer review requirements set forth by the Idaho state board of accountancy. The audit shall be submitted to the Idaho state lottery within ninety (90) days after the end of the license year.

SECTION 9. That Section 67-7711, Idaho Code, be, and the same is hereby amended to read as follows:

67-7711. LICENSING PROCEDURE. (1) Any charitable or nonprofit organization not exempt pursuant to section 67-7713, Idaho Code, desiring to operate bingo sessions or games or charitable raffles shall make application for a license to the state lottery. The state lottery shall review the license application and shall approve or deny the issuing of a license within fifteen (15) calendar days of receipt of the license application. The state lottery may deny the application if it determines that the applicant has not met requirements for an application imposed in this chapter and rules promulgated pursuant to this chapter or upon any ground for which an application for renewal of a license could be denied or for which an existing licensee's license could be revoked or suspended. Whenever an application is denied, it shall be returned to the applicant by the state lottery with specific reasons for the denial. When a license application is approved by the state lottery, the state lottery shall issue a license to the applicant. No person or charitable or nonprofit organization, except those exempt pursuant to section 67-7713, Idaho Code, shall operate or conduct a bingo session or game or charitable raffle until it has received a license from the state lottery. The license shall expire one (1) year after the date it was issued. ~~A copy of the license shall be furnished to the county sheriff of the county or the chief of police of the city in which the licensee intends to operate a bingo session or game or sell charitable raffle tickets before a bingo session or game or a charitable raffle is conducted by the licensee.~~

(2) Each application and renewal application shall contain the following information:

(a) The name, address, date of birth, driver's license number and social security number of the applicant and if the applicant is a corporation, association or other similar legal entity, the name, home address, date of birth, driver's license number and social security number of each of the officers of the organization as well as the name and address of the directors, or other persons similarly situated, of the organization;

(b) The name, home address, date of birth, driver's license number and social security number of each of the person or persons responsible for managing the bingo session or game or raffle;

(c) (i) In the case of charitable organizations, a copy of the application for recognition of exemptions and a determination letter from the internal revenue service that indicates that the organization is a charitable organization and stating the section under which that exemption is granted, except that if the organization is a state or local branch, lodge, post or chapter of a national organization, a copy of the determination letter of the national organization shall satisfy this requirement; and

(ii) In the case of incorporated nonprofit organizations, a copy of a certificate of existence issued by the secretary of state pursuant to chapter 3, title 30, Idaho Code, establishing the organization's good standing in the state.

(d) The location at which the applicant will conduct the bingo session or games or drawings for the raffles.

(3) The operation of bingo sessions or games or charitable raffles shall be the direct responsibility of, and controlled by, ~~a special committee selected by the governing body of the organization. If the governing body has not appointed a special committee,~~ and the members of the governing body shall be held responsible for the conduct of the bingo sessions or games or raffles. No directors or officers of an organization or persons related to them either by marriage or blood within the second degree shall receive any compensation derived from the proceeds of a bingo session or raffle regulated under the provisions of this chapter. An organization shall not contract with any person for the purpose of conducting a bingo session or providing bingo services or conducting a raffle on the organization's behalf, provided that this prohibition does not prevent a bingo organization from hiring employees and paying wages as provided in section 67-7709(1) (d) (ii), Idaho Code. However, if the state lottery commission has entered into an agreement or contract with another state for the operation or promotion of joint bingo sessions, the charitable or nonprofit organization may participate in that contract or agreement.

(4) Different chapters of an organization may apply for and share one (1) license to conduct raffles so long as the information required in subsection (2) of this section is provided to the lottery prior to the issuance of the license.

(5) The organization may apply for the license to coincide with the organization's fiscal year.

SECTION 10. That Section 67-7712, Idaho Code, be, and the same is hereby amended to read as follows:

67-7712. LICENSE FEES -- SUSPENSION OR REVOCATION. (1) Each organization that applies to the state lottery for a license pursuant to this chapter shall pay annually to the state lottery a nonrefundable license fee which shall be due upon submission of the application. License fees shall be based on the organization's gross revenues from bingo or raffle operations as required to be reported by statute or rule of the commission. Organizations with gross revenues of twenty-five thousand dollars (\$25,000) or less shall pay a fee of one hundred dollars (\$100). Organizations with gross revenues of twenty-five thousand dollars (\$25,000) to seventy-five thousand dollars (\$75,000) shall pay a fee of two hundred dollars (\$200). Organizations with gross revenues exceeding seventy-five thousand dollars (\$75,000) shall pay a fee of three hundred dollars (\$300). New organizations with no history of gross revenues shall pay a fee of one hundred dollars (\$100), and the gross revenues indicated in the organization's first annual report shall determine the license renewal fee.

(2) Any license issued pursuant to this chapter shall may be suspended or revoked by the state lottery if it is found that the licensee or any person connected with the licensee has violated any provision of this chapter or any rule of the lottery commission or ordinance of a county adopted pursuant to this chapter or:

(a) Has continued to operate bingo sessions or games after losing its tax exempt or nonprofit status or ceases to exercise independent control over its activities or budget as required under the provisions of this chapter;

(b) Has violated or has failed or refused to comply with the provisions of this chapter, or has violated the provisions of a rule of the lottery commission or has allowed such a violation to occur upon premises over which the licensee has substantial control;

(c) Has knowingly caused, aided or abetted, or conspired with another to cause, any person to fail or refuse to comply with the provisions, re-

quirements, conditions, limitation or duties imposed in this chapter, or to fail or refuse to comply with a rule adopted by the state lottery commission;

(d) Has obtained a license or permit by fraud, misrepresentation or concealment, or through inadvertence or mistake;

(e) Has been convicted, forfeited bond, or has been granted a withheld judgment, upon a charge involving forgery, theft, willful failure to make required payments or reports to a governmental agency at any level, or filing false reports to a governmental agency, or any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor, involving gambling activity, physical injury to individuals or moral turpitude;

(f) Denies the state lottery access to any place where a licensed game is conducted, denies access to any law enforcement officer, or fails promptly to produce for inspection or audit any records or items as required by law;

(g) Fails to have the license available for verification where the licensed game is conducted;

(h) Misrepresents or fails to disclose to the state lottery or any investigating law enforcement officer any material fact;

(i) Fails to demonstrate to the state lottery by clear and convincing evidence, qualifications for the license according to state law and the rules of the state lottery establishing such qualifications;

(j) Is subject to current prosecution or pending charges, or to a conviction regardless of whether it has been appealed, for any offense described in paragraph (e) of this subsection. At the request of an applicant for an original license, the state lottery may defer decision upon the application during the pendency of the prosecution or appeal;

(k) Has pursued or is pursuing economic gain in a manner or context which violates criminal or civil public policy of this state and creates a reasonable belief that the participation of the person in gaming operations by charitable or nonprofit organizations would be harmful to the proper operation of a lawful bingo or raffle.

(3) The state lottery may, upon its own motion or upon a written verified complaint of any other person, investigate the operation of any gaming purportedly authorized in this chapter. If the state lottery has reasonable cause to believe that any gaming as described in this chapter violates any of the provisions of this chapter or rules promulgated pursuant to this chapter, it may, in its discretion, place in probationary status, revoke, cancel, rescind or suspend any license for a period not to exceed one (1) year, or it. The state lottery may refuse to grant a renewal of the license or it may take other action as may be appropriate under this act chapter and any rules promulgated pursuant to this act chapter. If the state lottery shall refuse to grant a license or refuse to grant a renewal of a license or revoke, cancel, rescind or suspend a license, it shall give the applicant or licensee fifteen (15) calendar days' written notice of its intended action stating generally the basis for its action. Within the fifteen (15) calendar day notice period, the applicant or licensee shall indicate its acceptance of the decision of the state lottery or shall request a hearing to be held in the same manner as hearings in contested cases pursuant to chapter 52, title 67, Idaho Code. The hearing shall be conducted within twenty-one (21) days of the request. The applicant or licensee may appeal the decision of the state lottery after the hearing within the same time and manner as provided for judicial review of actions pursuant to chapter 52, title 67, Idaho Code. Failure to make the request for a hearing as provided herein, shall render the decision of the state lottery final and not subject to further appeal.

SECTION 11. That Section 67-7713, Idaho Code, be, and the same is hereby amended to read as follows:

67-7713. LICENSURE REQUIREMENTS. A charitable or nonprofit organization conducting a bingo game shall be required to obtain a license if the gross annual bingo sales are ten thousand dollars (\$10,000) or more. A charitable or nonprofit organization conducting a raffle shall be required to obtain a license if the maximum aggregate value of merchandise exceeds one five thousand dollars (\$15,000).

SECTION 12. That Section 67-7715, Idaho Code, be, and the same is hereby amended to read as follows:

67-7715. VENDORS -- LICENSING -- FEES. (1) No person or entity shall manufacture, sell, distribute, furnish or supply to any person or entity any gaming device, equipment or material, in this state or for use in this state, without first obtaining a vendor's license from the state lottery commission. Vendor licenses shall not be issued by the state lottery except respecting devices, equipment or material designed and permitted to be used in connection with activities authorized under this chapter. Provided however, that this licensing requirement shall apply only insofar as the state lottery commission has adopted rules implementing it as to particular categories of gaming devices and related material and equipment.

(2) Any person or entity that manufactures, sells, distributes, furnishes or supplies any gaming device, equipment or material, in this state or for use in this state shall make application for a vendor license to the state lottery. The state lottery shall review the license application and shall approve or deny the issuing of a license within fifteen (15) calendar days of receipt of the license application. The state lottery may deny the application if it determines that the applicant has not met the requirements imposed in this ~~aet~~ chapter and rules promulgated pursuant to this ~~aet~~ chapter. Whenever an application is denied, it shall be returned to the applicant by the state lottery with specific reasons for the denial. When the license application is approved by the state lottery, the state lottery shall issue a license to the applicant.

(3) Each application and renewal application shall contain the following information:

(a) The name, address, date of birth, driver's license number and social security number of the applicant and if the applicant is a corporation, proprietorship, association, partnership or other similar legal entity, the name, home address, date of birth, driver's license number and social security number of each of the officers of the corporation and their spouses, as well as the name and address of the directors and their spouses, or other persons similarly situated.

(b) The locations or persons with which the applicant will provide any gaming device, equipment or material in this state or for use in this state.

~~(4) Any licensee under this section shall submit an annual revenue report to the Idaho lottery commission within thirty (30) days of the end of the licensed year on the prescribed forms provided by the Idaho lottery commission.~~

~~(5) Each applicant shall pay annually to the state lottery a nonrefundable license fee of five hundred dollars (\$500) which shall be due upon submission of the application.~~

(5) Each licensed vendor shall maintain records of all sales to organizations in Idaho for a period of five (5) years. Such records shall be provided to the lottery upon request.

(6) Any license issued pursuant to this chapter section shall be suspended or revoked by the state lottery and the licensee may be assessed a

civil penalty by the state lottery up to ten thousand dollars (\$10,000) per violation if it is found that the licensee or any person connected with the licensee has violated any provision of this chapter, particularly those in section 67-7712, Idaho Code, or any rule of the lottery commission.

Approved April 3, 2013.

CHAPTER 252  
(S.B. No. 1135)

AN ACT

RELATING TO GROUNDS FOR MEDICAL DISCIPLINE BY THE STATE BOARD OF MEDICINE;  
AMENDING SECTION 54-1814, IDAHO CODE, TO PROVIDE ADDITIONAL GROUNDS FOR  
MEDICAL DISCIPLINE BY THE STATE BOARD OF MEDICINE OVER LICENSEES OR REG-  
ISTRANTS UNDER ITS JURISDICTION.

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

SECTION 1. That Section 54-1814, Idaho Code, be, and the same is hereby amended to read as follows:

54-1814. GROUNDS FOR MEDICAL DISCIPLINE. Every person licensed to practice medicine, licensed to practice as a physician assistant or registered as an extern, intern or resident in this state is subject to discipline by the board pursuant to the procedures set forth in this chapter and rules promulgated pursuant thereto upon any of the following grounds:

(1) Conviction of a felony, or a crime involving moral turpitude, or the entering of a plea of guilty or the finding of guilt by a jury or court of commission of a felony or a crime involving moral turpitude.

(2) Use of false, fraudulent or forged statements or documents, diplomas or credentials in connection with any licensing or other requirements of this act.

(3) Practicing medicine under a false or assumed name in this or any other state.

(4) Advertising the practice of medicine in any unethical or unprofessional manner.

(5) Knowingly aiding or abetting any person to practice medicine who is not authorized to practice medicine as provided in this chapter.

(6) Performing or procuring an unlawful abortion or aiding or abetting the performing or procuring of an unlawful abortion.

(7) The provision of health care which fails to meet the standard of health care provided by other qualified physicians 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.

(8) Division of fees or gifts or agreement to split or divide fees or gifts received for professional services with any person, institution or corporation in exchange for referral.

(9) Giving or receiving or aiding or abetting the giving or receiving of rebates, either directly or indirectly.

(10) Inability to obtain or renew a license to practice medicine, or revocation of, or suspension of a license to practice medicine by any other state, territory, district of the United States or Canada, unless it can be shown that such action was not related to the competence of the person to practice medicine or to any conduct designated herein.

(11) Prescribing or furnishing narcotic or hallucinogenic drugs to addicted persons to maintain their addictions and level of usage without attempting to treat the primary condition requiring the use of narcotics.

(12) Prescribing or furnishing narcotic, hypnotic, hallucinogenic, stimulating or dangerous drugs for other than treatment of any disease, injury or medical condition.

(13) Failure to safeguard the confidentiality of medical records or other medical information pertaining to identifiable patients, except as required or authorized by law.

(14) The direct promotion by a physician of the sale of drugs, devices, appliances or goods to a patient that are unnecessary and not medically indicated.

(15) Abandonment of a patient.

(16) Willfully and intentionally representing that a manifestly incurable disease or injury or other manifestly incurable condition can be permanently cured.

(17) Failure to supervise the activities of externs, interns, residents, nurse practitioners, certified nurse-midwives, clinical nurse specialists, or physician assistants.

(18) Practicing medicine when a license pursuant to this chapter is suspended, revoked or inactive.

(19) Practicing medicine in violation of a voluntary restriction or terms of probation pursuant to this chapter.

(20) Refusing to divulge to the board upon demand the means, method, device or instrumentality used in the treatment of a disease, injury, ailment, or infirmity.

(21) Commission of any act constituting a felony or commission of any act constituting a crime involving moral turpitude.

(22) Engaging in any conduct which constitutes an abuse or exploitation of a patient arising out of the trust and confidence placed in the physician by the patient.

(23) Being convicted of or pleading guilty to driving under the influence of alcohol, drugs or other intoxicating substances or being convicted of or pleading guilty to other drug or alcohol related criminal charges.

(24) Failure to comply with a board order entered by the board.

Approved April 3, 2013.

CHAPTER 253  
(S.B. No. 1136)

AN ACT

RELATING TO UNIFORM CONTROLLED SUBSTANCES; AMENDING SECTION 37-2705, IDAHO CODE, TO REVISE A LISTING OF SYNTHETIC DRUGS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 37-2705, Idaho Code, be, and the same is hereby amended to read as follows:

37-2705. SCHEDULE I. (a) The controlled substances listed in this section are included in schedule I.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

- (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyll-N-phenylacetamide);
- (2) Acetylmeperidine;
- (3) Allylprodine;

- (4) Alphacetylmethadol (except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate or LAAM);
- (5) Alphameprodine;
- (6) Alphamethadol;
- (7) Alpha-methylfentanyl;
- (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- (9) Benzethidine;
- (10) Betacetylmethadol;
- (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);
- (12) Beta-hydroxy-3-methylfentanyl (N-(1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl)-N-phenylpropanamide);
- (13) Betameprodine;
- (14) Betamethadol;
- (15) Betaprodine;
- (16) Clonitazene;
- (17) Dextromoramide;
- (18) Diampromide;
- (19) Diethylthiambutene;
- (20) Difenoxin;
- (21) Dimenoxadol;
- (22) Dimepheptanol;
- (23) Dimethylthiambutene;
- (24) Dioxaphetyl butyrate;
- (25) Dipipanone;
- (26) Ethylmethylthiambutene;
- (27) Etonitazene;
- (28) Etoxeridine;
- (29) Furethidine;
- (30) Hydroxypethidine;
- (31) Ketobemidone;
- (32) Levomoramide;
- (33) Levophenacymorphan;
- (34) 3-Methylfentanyl;
- (35) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- (36) Morpheridine;
- (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (38) Noracymethadol;
- (39) Norlevorphanol;
- (40) Normethadone;
- (41) Norpipanone;
- (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);
- (43) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- (44) Phenadoxone;
- (45) Phenampromide;
- (46) Phenomorphan;
- (47) Phenoperidine;
- (48) Piritramide;
- (49) Proheptazine;
- (50) Properidine;
- (51) Propiram;
- (52) Racemoramide;
- (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);
- (54) Tilidine;
- (55) Trimeperidine.



(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine (except hydrochloride salt);
- (11) Heroin;
- (12) Hydromorphanol;
- (13) Methyldesorphine;
- (14) Methyldihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) Pholcodine;
- (23) Thebacon.

(d) Hallucinogenic substances. Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):

- (1) 4-bromo-2,5-dimethoxy amphetamine;
- (2) 2,5-dimethoxyamphetamine;
- (3) 4-bromo-2,5-dimethoxyphenethylamine (some other names: alpha-desmethyl DOB, 2C-B);
- (4) 2,5-dimethoxy-4-ethylamphetamine (another name: DOET);
- (5) 2,5-dimethoxy-4-(n)-propylthiophenethylamine;
- (6) 4-methoxyamphetamine (PMA);
- (7) 5-methoxy-3,4-methylenedioxy-amphetamine;
- (8) 5-methoxy-N,N-diisopropyltryptamine;
- (9) 4-methyl-2,5-dimethoxy-amphetamine (DOM, STP);
- (10) 3,4-methylenedioxy amphetamine;
- (11) 3,4-methylenedioxymethamphetamine (MDMA);
- (12) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-ethyl MDA, MDE, MDEA);
- (13) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-hydroxy MDA);
- (14) 3,4,5-trimethoxy amphetamine;
- (15) 5-methoxy-N,N-dimethyltryptamine (also known as 5-methoxy-3-2[2-(dimethylamino)ethyl]indole and 5-MeO-DMT);
- (16) Alpha-ethyltryptamine (some other names: etryptamine, 3-(2-aminobutyl) indole);
- (17) Alpha-methyltryptamine;
- (18) Bufotenine;

- (19) Diethyltryptamine (DET);
- (20) Dimethyltryptamine (DMT);
- (21) Ibogaine;
- (22) Lysergic acid diethylamide;
- (23) Marihuana;
- (24) Mescaline;
- (25) Parahexyl;
- (26) Peyote;
- (27) N-ethyl-3-piperidyl benzilate;
- (28) N-methyl-3-piperidyl benzilate;
- (29) Psilocybin;
- (30) Psilocyn;
- (31) Tetrahydrocannabinols or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure such as the following:

- i. Tetrahydrocannabinols:

- a.  $\Delta^1$  cis or trans tetrahydrocannabinol, and their optical isomers, excluding dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration.
- b.  $\Delta^6$  cis or trans tetrahydrocannabinol, and their optical isomers.
- c.  $\Delta^{3,4}$  cis or trans tetrahydrocannabinol, and its optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered.)
- d. [(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2methyl-octan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol)], also known as 6aR-trans-3-(1,1-dimethylheptyl)-6a,7,10,10a-tetrahydro-1-hydroxy-6,6-dimethyl-6H-dibenzo[b,d]pyran-9-methanol (HU-210) and its geometric isomers (HU211 or dexanabinol).

- ii. The following synthetic drugs:

- a. Any compound structurally derived from 3-(1-naphthyl)indole or 1H-indol-3-yl-(1-naphthyl)methane (1H-indole-3-yl)(cycloalkyl, cycloalkenyl, aryl)methanone, or (1H-indole-3-yl)(cycloalkyl, cycloalkenyl, aryl)methane, or (1H-indole-3-yl)(cycloalkyl, cycloalkenyl, aryl)carboxamide by substitution at the nitrogen atoms of the indole ring or carboxamide to any extent, whether or not further substituted in or on the indole ring to any extent, whether or not substituted in the naphthyl ring to any extent in or on the cycloalkyl, cycloalkenyl, aryl ring(s) (substitution in the ring may include, but is not limited to, heteroatoms such as nitrogen, sulfur and oxygen).
- b. Any compound structurally derived from 3-(1-naphthyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring to any extent, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent.
- c. Any compound structurally derived from 1-(1-naphthylmethyl)indene by substitution at the 3-position of the indene ring to any extent, whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent.
- d. Any compound structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the

indole ring to any extent, whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent.

e. Any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring to any extent, whether or not substituted in the cyclohexyl ring to any extent.

f. Any compound structurally derived from 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring to any extent, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent.

g. [2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrol-1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone (WIN-55,212-2).

h. 3-dimethylheptyl-11-hydroxyhexahydrocannabinol (HU-243).

i. [(6S, 6aR, 9R, 10aR)-9-hydroxy-6-methyl-3-[(2R)-5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl]acetate (CP 50,5561).

(32) Ethylamine analog of phencyclidine: N-ethyl-1-phenylcyclohexylamine (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE;

(33) Pyrrolidine analog of phencyclidine: 1-(phenylcyclohexyl) - pyrrolidine, PCPy, PHP;

(34) Thiophene analog of phencyclidine 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP;

(35) 1-[1-(2-thienyl) cyclohexyl] pyrrolidine another name: TCPy;

(36) Spores or mycelium capable of producing mushrooms that contain psilocybin or psilocin.

(e) 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 depressant effect on the central nervous system, 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) Gamma hydroxybutyric acid (some other names include GHB; gamma-hydroxybutyrate, 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);

(2) Flunitrazepam (also known as "R2," "Rohypnol");

(3) Mecloqualone;

(4) Methaqualone.

(f) 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, and salts of isomers:

(1) Aminorex (some other names: aminoxaphen, 2-amino-5-phenyl-2-oxazoline, or 4,5-dihydro-5-phenyl-2-oxazolamine);

(2) Cathinone (some other names: 2-amino-1-phenol-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone);

(3) Substituted cathinones. Any compound, except bupropion or compounds listed under a different schedule, structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl or thiophene ring systems, whether or not the compound is further modified in any of the following ways:

i. By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl or halide sub-

stituents, whether or not further substituted in the ring system by one (1) or more other univalent substituents;

ii. By substitution at the 3-position with an acyclic alkyl substituent;

iii. By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure.

(4) Fenethylamine;

(5) Methcathinone (some other names: 2-(methyl-amino)-propionophenone, alpha-(methylamino)-propionophenone, N-methylcathinone, AL-464, AL-422, AL-463 and UR1423);

(6) (+/-) cis-4-methylaminorex [(+/-) cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine];

(7) N-benzylpiperazine (also known as: BZP, 1-benzylpiperazine);

(8) N-ethylamphetamine;

(9) N,N-dimethylamphetamine (also known as: N,N-alpha-trimethyl-benzeneethanamine).

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 April 3, 2013.

CHAPTER 254  
(S.B. No. 1145)

AN ACT

RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-523, IDAHO CODE, TO EXTEND A TEMPORARY PREMIUM TAX REDUCTION AND TO EXTEND CERTAIN DEDUCTION PROVISIONS.

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

SECTION 1. That Section 72-523, Idaho Code, be, and the same is hereby amended to read as follows:

72-523. SOURCE OF FUND -- PREMIUM TAX. The state insurance fund, every authorized self-insurer and every surety authorized under the Idaho insurance code or by the director of the department of insurance to transact worker's compensation insurance in Idaho, in addition to all other payments required by statute, shall semiannually, within thirty (30) days after February 1 and July 1 of each year, pay into the state treasury to be deposited in the industrial administration fund a premium tax as follows:

(1) Commencing July 1, 1993, every surety, other than self-insurers authorized to transact worker's compensation insurance, a sum equal to two and one-half percent (2.5%) of the net premiums written by each respectively on worker's compensation insurance in this state during the preceding six (6) months' period, but in no case less than seventy-five dollars (\$75.00);

(2) Each self-insurer, a sum equal to two and one-half percent (2.5%) of the amount of premium such employer who is a self-insurer would be required to pay as premium to the state insurance fund, but in no case less than seventy-five dollars (\$75.00);

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, for the period January 1, 2012, through December 31, 2013:

(a) Every surety, other than self-insurers authorized to transact worker's compensation insurance, a sum equal to two percent (2%) of

the net premiums written by each respectively on worker's compensation insurance in this state during the preceding six (6) months' period, but in no case less than seventy-five dollars (\$75.00); and

(b) Each self-insurer, a sum equal to two percent (2%) of the amount of premium such employer who is a self-insurer would be required to pay as premium to the state insurance fund, but in no case less than seventy-five dollars (\$75.00).

(4) Any insurer making any payment into the industrial administration fund under the provisions of subsection (1) of this section or, during the period January 1, 2012, through December 31, 2013<sup>5</sup>, any insurer making any payment into the industrial administration fund under the provisions of subsection (3) of this section, shall be entitled to deduct fifty percent (50%) of the premium tax paid pursuant to this section from any sum that it is required to pay into the department of insurance as a tax on worker's compensation premiums.

(5) In arriving at net premiums written, dividends paid, declared or payable shall not be deducted.

(6) For the purposes of this section and section 72-524, Idaho Code, net premiums written shall mean the amount of gross direct premiums written, less returned premiums and premiums on policies not taken.

Approved April 3, 2013.

CHAPTER 255  
(S.B. No. 1146)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-522, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN CONDITIONS CONCERNING THE DECLARATION OF A FINANCIAL EMERGENCY.

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

SECTION 1. That Section 33-522, Idaho Code, be, and the same is hereby amended to read as follows:

33-522. FINANCIAL EMERGENCY. (1) Prior to declaring a financial emergency, the board of trustees shall hold a public meeting for the purpose of receiving input concerning possible solutions to the financial problems facing the school district.

(2) If the state department of education certifies that one (1) or more of the conditions in paragraph (a), (b) or (c) of this subsection are met, then the board of trustees may declare a financial emergency if it determines that the condition in paragraph (f) of this subsection is also met. Alternatively, the board of trustees may declare a financial emergency if it determines that either of the conditions in paragraph (d) or (e) of this subsection are met and the state department of education certifies that the condition set forth in paragraph (f) of this subsection is also met.

(a) Any of the base salary multipliers in section 33-1004E, Idaho Code, are reduced by one and one-half percent (1 1/2%) or more from any prior fiscal year.

(b) The minimum instructional salary provision in section 33-1004E, Idaho Code, is reduced by one and one-half percent (1 1/2%) or more from any prior fiscal year.

(c) The amount of total general fund money appropriated per support unit is reduced by greater than three percent (3%) from the original general fund appropriation per support unit of any prior fiscal year.

(d) The amount of property tax revenue to be collected by the school district that may be used for any general fund purpose, with the exception of any emergency levy funds, is reduced from the prior fiscal year, and the amount of said reduction represents more than five one and one-half percent (5 1/2%) of the school district's general fund budget for combined state and local revenues from the prior fiscal year.

(e) The school district's general fund has decreased by at least three one and one-half percent (3 1/2%) from the previous year's level due to a decrease in funding or natural disaster, but not as a result of a drop in the number of support units or the index multiplier calculated pursuant to section 33-1004A, Idaho Code, or a change in the emergency levy.

(f) The school district's unrestricted general fund balance, which excludes funds restricted by state or federal law and considering both anticipated expenditures and revenue, is less than five and one-half percent (5 1/2%) of the school district's unrestricted general fund budget at the time the financial emergency is declared or for the fiscal year for which the financial emergency is declared.

(3) Upon its declaration of a financial emergency, the board of trustees shall:

(a) Have the power to reopen the salary and benefits compensation aspects of the negotiated agreement, including the length of the certificated employee contracts and the amount of compensation and benefits; and

(b) If the parties to the negotiated agreement mutually agree, reopen other matters contained within the negotiated agreement directly affecting the financial circumstances in the school district.

If the board of trustees exercises the power provided in this subsection consistent with the requirements of subsection (2) of this section, both the board of trustees and the local education association shall meet and confer in good faith for the purpose of reaching an agreement on such issues.

(4) If, after the declaration of a financial emergency pursuant to subsection (2) of this section, both parties have met and conferred in good faith and an agreement has not been reached, the board of trustees may impose its last, best offer, following the outcome of the due process hearing held pursuant to section 33-515(7), Idaho Code.

(5) A financial emergency declared pursuant to subsection (2) of this section shall be effective for only one (1) fiscal year at a time and shall not be declared by the board of trustees for a second consecutive year, unless so qualified by additional reductions pursuant to the conditions listed in subsection (2) of this section.

(6) The time requirements of sections 33-514(2) and 33-515(2), Idaho Code, shall not apply in the event a financial emergency is declared pursuant to subsection (2) of this section.

Approved April 3, 2013.

CHAPTER 256  
(S.B. No. 1151)

AN ACT

RELATING TO CRIMINAL PROCEDURE; AMENDING SECTION 19-2604, IDAHO CODE, TO REVISE PROVISIONS WHEN RELIEF FROM A FELONY CONVICTION MAY BE GRANTED AND TO PROVIDE PROCEDURES.

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

SECTION 1. That Section 19-2604, Idaho Code, be, and the same is hereby amended to read as follows:

19-2604. DISCHARGE OF DEFENDANT -- AMENDMENT OF JUDGMENT. (1) If sentence has been imposed but suspended, or if sentence has been withheld, upon application of the defendant and upon satisfactory showing that:

(a) The court did not find, and the defendant did not admit, in any probation violation proceeding that the defendant violated any of the terms or conditions of probation; or

(b) The defendant has successfully completed and graduated from an authorized drug court program or mental health court program and during any period of probation that may have been served following such graduation, the court did not find, and the defendant did not admit, in any probation violation proceeding that the defendant violated any of the terms or conditions of probation;

the court may, if convinced by the showing made that there is no longer cause for continuing the period of probation, and if it be compatible with the public interest, terminate the sentence or set aside the plea of guilty or conviction of the defendant, and finally dismiss the case and discharge the defendant or may amend the judgment of conviction from a term in the custody of the state board of correction to "confinement in a penal facility" for the number of days served prior to suspension, and the amended judgment may be deemed to be a misdemeanor conviction. This shall apply to the cases in which defendants have been convicted and granted probation by the court before this law goes into effect, as well as to cases which arise thereafter. The final dismissal of the case as herein provided shall have the effect of restoring the defendant to his civil rights.

(2) If sentence has been imposed but suspended for any period during the first three hundred sixty-five (365) days of a sentence to the custody of the state board of correction, and the defendant placed upon probation as provided in subsection 4. of section 19-2601, Idaho Code, upon application of the defendant, the prosecuting attorney, or upon the court's own motion, and upon satisfactory showing that:

(a) The court did not find, and the defendant did not admit, in any probation violation proceeding that the defendant violated any of the terms or conditions of probation; or

(b) The defendant has successfully completed and graduated from an authorized drug court program or mental health court program and during any period of probation that may have been served following such graduation, the court did not find, and the defendant did not admit, in any probation violation proceeding that the defendant violated any of the terms or conditions of probation;

the court may amend the judgment of conviction from a term in the custody of the state board of correction to "confinement in a penal facility" for the number of days served prior to suspension, and the amended judgment may be deemed to be a misdemeanor conviction.

(3) (a) In addition to the circumstances in which relief from a felony conviction may be granted under subsections (1) and (2) of this section,

a defendant who has been convicted of a felony and who has been discharged from probation may apply to the sentencing court for a reduction of the conviction from a felony to a misdemeanor as provided in this subsection.

(b) If less than five (5) years have elapsed since the defendant's discharge from probation, the application may be granted only if the prosecuting attorney stipulates to the reduction.

(c) If at least five (5) years have elapsed since the defendant's discharge from probation, and if the defendant was convicted of any of the following offenses, the application may be granted only if the prosecuting attorney stipulates to the reduction:

(i) Assault with intent to commit a serious felony (18-909, 18-915, Idaho Code);

(ii) Battery with intent to commit a serious felony (18-911, 18-915, Idaho Code);

(iii) Enticing of children (18-1509, Idaho Code);

(iv) Murder in the first or second degree (18-4003, Idaho Code);

(v) Voluntary manslaughter (18-4006(1), Idaho Code);

(vi) Assault with intent to commit murder (18-4015, Idaho Code);

(vii) Administering poison with intent to kill (18-4014, Idaho Code);

(viii) Kidnapping in the first degree (18-4502, Idaho Code);

(ix) Robbery (18-6501, Idaho Code);

(x) Trafficking (37-2732B, Idaho Code);

(xi) Threats against state officials of the executive, legislative or judicial branch, felony (18-1353A, Idaho Code);

(xii) Unlawful discharge of a firearm at a dwelling house, occupied building, vehicle or mobile home (18-3317, Idaho Code);

(xiii) Cannibalism (18-5003, Idaho Code);

(xiv) Unlawful use of destructive device or bomb (18-3320, Idaho Code);

(xv) Attempt, conspiracy or solicitation to commit any of the crimes described in paragraph (c) (i) through (xiv).

(d) The decision as to whether to grant such an application shall be in the discretion of the district court, provided that the application may be granted only if the court finds that:

(i) The defendant has not been convicted of any felony committed after the conviction from which relief is sought;

(ii) The defendant is not currently charged with any crime;

(iii) The reduction in sentence would be compatible with the public interest; and

(iv) In those cases where the stipulation of the prosecuting attorney is required under paragraph (b) or (c) of this subsection, the prosecuting attorney has so stipulated.

(e) If the court grants the application, the court shall reduce the felony conviction to a misdemeanor and amend the judgment of conviction for a term in the custody of the state board of correction to "confinement in a penal facility" for the number of days served prior to the judgment of conviction.

(4) Subsections (2) and (3) of this section shall not apply to any judgment of conviction for a violation of any offense requiring sex offender registration as set forth in section 18-8304, Idaho Code. A judgment of conviction for a violation of any offense requiring sex offender registration as set forth in section 18-8304, Idaho Code, shall not be subject to dismissal or reduction under this section. A conviction for the purposes of this chapter means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.



CHAPTER 257  
(S.B. No. 1165)

AN ACT

RELATING TO ATTORNEY'S FEES; AMENDING SECTION 41-1839, IDAHO CODE, TO REVISE A PROVISION RELATING TO ATTORNEY'S FEES WHEN AN INSURER FAILS TO PAY A PERSON ENTITLED.

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

SECTION 1. That Section 41-1839, Idaho Code, be, and the same is hereby amended to read as follows:

41-1839. ALLOWANCE OF ATTORNEY'S FEES IN SUITS AGAINST OR IN ARBITRATION WITH INSURERS. (1) Any insurer issuing any policy, certificate or contract of insurance, surety, guaranty or indemnity of any kind or nature whatsoever, ~~which shall that fails to pay a person entitled thereto within for a period of thirty (30) days after proof of loss has been furnished as provided in such policy, certificate or contract, or to pay to the person entitled thereto within sixty (60) days if the proof of loss pertains to uninsured motorist or underinsured motorist coverage benefits,~~ the amount that person is justly due under such policy, certificate or contract, shall in any action thereafter brought ~~commenced~~ against the insurer in any court in this state, or in any arbitration for recovery under the terms of the policy, certificate or contract, pay such further amount as the court shall adjudge reasonable as attorney's fees in such action or arbitration.

(2) In any such action or arbitration, if it is alleged that before the commencement thereof, a tender of the full amount justly due was made to the person entitled thereto, and such amount is thereupon deposited in the court, and if the allegation is found to be true, or if it is determined in such action or arbitration that no amount is justly due, then no such attorney's fees may be recovered.

(3) This section shall not apply as to actions under the worker's compensation law, title 72, Idaho Code. This section shall not apply to actions or arbitrations against surety insurers by creditors of or claimants against a principal and arising out of a surety or guaranty contract issued by the insurer as to such principal, unless such creditors or claimants shall have notified the surety of their claim, in writing, at least sixty (60) days prior to such action or arbitration against the surety. The surety shall be authorized to determine what portion or amount of such claim is justly due the creditor or claimant and payment or tender of the amount so determined by the surety shall not be deemed a volunteer payment and shall not prejudice any right of the surety to indemnification and/or subrogation so long as such determination and payment by the surety be made in good faith. Nor shall this section apply to actions or arbitrations against fidelity insurers by claimants against a principal and arising out of a fidelity contract or policy issued by the insurer as to such principal unless the liability of the principal has been acknowledged by him in writing or otherwise established by judgment of a court of competent jurisdiction.

(4) Notwithstanding any other provision of statute to the contrary, this section and section 12-123, Idaho Code, shall provide the exclusive remedy for the award of statutory attorney's fees in all actions or arbitrations between insureds and insurers involving disputes arising under policies of insurance. Provided, attorney's fees may be awarded by the court when it finds, from the facts presented to it that a case was brought, pursued or defended frivolously, unreasonably or without foundation. Section 12-120, Idaho Code, shall not apply to any actions or arbitrations

between insureds and insurers involving disputes arising under any policy of insurance.

Approved April 3, 2013.

CHAPTER 258  
(S.B. No. 1179)

AN ACT

RELATING TO TRANSPORTATION AND VEHICLES; AMENDING SECTION 40-317, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO AGREEMENTS WITH AUTHORIZED REPRESENTATIVES OF CONTIGUOUS STATES FOR CERTAIN PURPOSES; AND AMENDING CHAPTER 2, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-244, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO CERTAIN INDIAN TRIBAL MEMBERS FOR PURPOSES OF VEHICLE REGISTRATION AND TITLING.

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

SECTION 1. 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 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 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 2. That Chapter 2, 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 49-244, Idaho Code, and 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, 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.

Approved April 3, 2013.

CHAPTER 259  
(H.B. No. 30, As Amended)

AN ACT

RELATING TO THE ADMINISTRATION OF OATHS AND AFFIRMATIONS; AMENDING CHAPTER 14, TITLE 9, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 9-1406, IDAHO CODE, TO PROVIDE FOR A CERTIFICATION OR DECLARATION UNDER PENALTY OF PERJURY AND TO PROVIDE THAT SUCH NEW SECTION SHALL NOT APPLY TO ACKNOWLEDGMENTS; AND AMENDING SECTION 18-5402, IDAHO CODE, TO FURTHER DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Chapter 14, Title 9, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 9-1406, Idaho Code, and to read as follows:

9-1406. CERTIFICATION OR DECLARATION UNDER PENALTY OF PERJURY. (1) Whenever, under any law of this state or under any rule, regulation, order or requirement made pursuant to a law of this state, any matter is required or permitted to be supported, evidenced, established or proved by the sworn statement, declaration, verification, certificate, oath, affirmation or affidavit, in writing, of the person making the same, other than a deposition, an oath of office or an oath required to be taken before a specified official other than a notary public, such matter may with like force and effect be supported, evidenced, established or proven by the unsworn certification or declaration, in writing, which is subscribed by such person and is in substantially the following form:

"I certify (or declare) under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct."

.....  
(Date)

.....  
(Signature)

(2) This section shall not apply to acknowledgments.

SECTION 2. That Section 18-5402, Idaho Code, be, and the same is hereby amended to read as follows:

18-5402. OATH DEFINED. The term "oath" as used in ~~the last section 18-5401, Idaho Code,~~ includes an affirmation, and every other mode authorized by law of attesting the truth of that which is stated, including a certification or declaration under penalty of perjury permitted by the law of this state, whether subscribed within or without this state.

Approved April 3, 2013.

CHAPTER 260  
(H.B. No. 80)

AN ACT

RELATING TO ENHANCED EMERGENCY COMMUNICATIONS GRANT FEES; AMENDING SECTION 31-4819, IDAHO CODE, TO REVISE PROVISIONS RELATING TO ENHANCED EMERGENCY COMMUNICATIONS GRANT FEES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. 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 July 1, 2008~~13~~, ~~through June 30, 2014~~, 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 ~~of~~ 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.

(c) 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.

(d) 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.

(e) 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.

~~(2) On and after July 1, 2014, the collection of the emergency communications fee shall revert to the provisions of sections 31-4801 through 31-4818, Idaho Code.~~

Approved April 3, 2013.

#### CHAPTER 261

(H.B. No. 91, As Amended)

#### AN ACT

RELATING TO EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1316A, IDAHO CODE, TO FURTHER DEFINE EXEMPT EMPLOYMENT AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 72-1316A, Idaho Code, be, and the same is hereby amended to read as follows:

72-1316A. EXEMPT EMPLOYMENT. "Exempt employment" means service performed:

- (1) By an individual in the employ of his spouse or child.
- (2) By a person under the age of twenty-one (21) years in the employ of his father or mother.
- (3) By an individual under the age of twenty-two (22) years who is enrolled as a student in a full-time program at an accredited nonprofit or public education institution for which credit at such institution is earned in a program which combines academic instruction with work experience. This subsection shall not apply to service performed in a program established at the request of an employer or group of employers.
- (4) In the employ of the United States government or an instrumentality of the United States exempt under the constitution of the United States from the contributions imposed by this chapter.
- (5) In the employ of a governmental entity in the exercise of duties:
  - (a) As an elected official;
  - (b) As a member of a legislative body, or a member of the judiciary, of a state or political subdivision thereof;

- (c) As a member of the state national guard or air national guard;
  - (d) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; ~~or~~
  - (e) In a position which, pursuant to the laws of this state, is designated as (i) a major nontenured policymaking or advisory position, or (ii) a policymaking or advisory position which ordinarily does not require more than eight (8) hours per week; or
  - (f) As an election official or election worker including, but not limited to, a poll worker, an election judge, an election clerk or any other member of an election board, if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than one thousand dollars (\$1,000).
- (6) By an inmate of a correctional, custodial or penal institution, if such services are performed for or within such institution.
- (7) In the employ of:
- (a) A church or convention or association of churches; or
  - (b) An organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church, or convention or association of churches; or
  - (c) In the employ of an institution of higher education, if it is devoted primarily to preparation of a student for the ministry or training candidates to become members of a religious order; or
  - (d) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order.
- (8) By a program participant in a facility that provides rehabilitation for individuals whose earning capacity is impaired by age, physical or mental limitation, or injury or provides remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed into the labor market.
- (9) As part of an unemployment work relief program or as part of an unemployment work training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training.
- (10) Service with respect to which unemployment insurance is payable under an unemployment insurance system established by an act of congress other than the social security act.
- (11) As a student nurse in the employ of a hospital or nurses' training school by an individual who is enrolled and is regularly attending courses in a nurses' training school approved pursuant to state law, and service performed as an intern in the employ of a hospital by an individual who has completed a course in a medical school approved pursuant to state law.
- (12) By an individual under the age of eighteen (18) years ~~of age~~ in the delivery or distribution of newspapers or shopping news not including delivery or distribution to any point for subsequent delivery or distribution.
- (13) By an individual for a person as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commission.
- (14) By an individual for a real estate broker as an associate real estate broker or as a real estate salesman, if all such service performed by such individual for such person is performed for remuneration solely by way of commission.
- (15) Service covered by an election approved by the agency charged with the administration of any other state or federal unemployment insurance law, in accordance with an arrangement pursuant to section 72-1344, Idaho Code.
- (16) In the employ of a school or college by a student who is enrolled and regularly attending classes at such school or college.
- (17) In the employ of a hospital by a resident patient of such hospital.
- (18) By a member of an AmeriCorps program.

(19) By an individual who is paid less than fifty dollars (\$50.00) per calendar quarter for performing work that is not in the course of the employer's trade or business, and who is not regularly employed by such employer to perform such service. For the purposes of this subsection, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if:

(a) On each of some twenty-four (24) days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business; or

(b) Such individual was so employed by such employer in the performance of such service during the preceding calendar quarter.

(20) By an individual who is engaged in the trade or business of selling or soliciting the sale of consumer products in a private home or a location other than in a permanent retail establishment, provided the following criteria are met:

(a) Substantially all the remuneration, whether or not received in cash, for the performance of the services is directly related to sales or other output, including the performance of services, rather than to the number of hours worked; and

(b) The services performed by the individual are performed pursuant to a written contract between the individual and the person for whom the services are performed, and the contract provides that the individual shall not be treated as an employee for federal and state tax purposes.

Such exemption applies solely to the individual's engagement in the trade or business of selling or soliciting the sale of consumer products in a private home or location other than in a permanent retail establishment.

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 April 3, 2013.

CHAPTER 262  
(H.B. No. 125)

AN ACT

RELATING TO GUARDIANSHIP AND CONSERVATORSHIP; AMENDING SECTION 15-5-308, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CRIMINAL HISTORY AND BACKGROUND CHECKS ON CERTAIN PERSONS, TO REVISE PROVISIONS RELATING TO GUARDIANSHIP PROCEEDINGS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 15-5-311, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO THE APPOINTMENT OF A GUARDIAN OF AN INCAPACITATED PERSON AND TO ESTABLISH CERTAIN REPORTING REQUIREMENTS; AMENDING SECTION 15-5-316, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CRIMINAL HISTORY AND BACKGROUND CHECKS CONDUCTED ON CERTAIN PERSONS; AMENDING SECTION 56-1004A, IDAHO CODE, TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO CRIMINAL HISTORY AND BACKGROUND CHECKS, TO GRANT THE DEPARTMENT OF HEALTH AND WELFARE CERTAIN RULEMAKING AUTHORITY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 66-404, IDAHO CODE, TO REVISE TERMINOLOGY, TO ESTABLISH PROVISIONS RELATING TO THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR OF AN INCAPACITATED PERSON AND TO ESTABLISH CERTAIN REPORTING REQUIREMENTS; AND AMENDING SECTION 66-405, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE THAT CERTAIN INFORMATION SHALL BE INCLUDED IN A CERTAIN REPORT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 15-5-308, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-308. VISITOR IN GUARDIANSHIP PROCEEDING. (1) A visitor is, with respect to guardianship proceedings, a person who is trained in law, nursing, psychology, social work, or counseling or has other qualifications that make him suitable to perform the function and is an officer, employee or special appointee of the court with no personal interest in the proceedings. The visitor's report is to include the following information: a description of the nature, cause and degree of incapacity, and the basis upon which this judgment is made; a description of the needs of the person alleged to be incapacitated for care and treatment and the probable residential requirements; a statement as to whether a convicted felon resides in or frequents the incapacitated person's proposed residence; an evaluation of the appropriateness of the guardian or conservator whose appointment is sought and a description of the steps the proposed guardian or conservator has taken or intends to take to meet the needs of the incapacitated person; a description of the abilities of the alleged incapacitated person and a recommendation as to whether a full or limited guardianship or conservatorship should be ordered and, if limited, the visitor's recommendation of the specific areas of authority the limited guardianship or conservatorship should have and the limitations to be placed on the incapacitated person; any expression of approval or disapproval made by the alleged incapacitated person concerning the proposed guardianship or conservatorship; an analysis of the financial status and assets of the alleged incapacitated person; identification of people with significant interest in the welfare of the alleged incapacitated person who should be informed of the proceedings; a description of the qualifications and relationship of the proposed guardian or conservator; an explanation of how the alleged incapacitated person responded to the advice of the proceedings and the right to be present at the hearing on the petition; in the case of conservatorship, a recommendation for or against a bond requirement for the proposed conservator, taking into account the financial statement of the person whose appointment is sought.

(2) Any person appointed as a visitor shall be personally immune from any liability for acts, omissions or errors in the same manner as if such person were a volunteer or director under the provisions of section 6-1605, Idaho Code.

(3) The visitor may not also be appointed as guardian ad litem for the person alleged to be incapacitated nor may the guardian ad litem for the person alleged to be incapacitated be appointed as visitor, nor may the visitor and the guardian ad litem for the person alleged to be incapacitated be members or employees of the same entity including, but not limited to, being members or employees of the same law firm.

(4) ~~The visitor shall have the discretionary authority to conduct court may order a criminal history and background check to be conducted at the proposed guardian's expense on a proposed guardian, conservator or a person any individual who resides in or frequents the incapacitated person's proposed residence. Any such check shall be conducted pursuant to section 56-1004A(2) and (3), Idaho Code.~~

(5) In preparing their reports, the visitor and guardian ad litem shall consider all information available to them concerning any proposed guardian, conservator and individual who resides in or frequents the incapacitated person's proposed residence including, but not limited to, such information as might be available to the visitor pursuant to section 15-5-311(5), Idaho Code.

SECTION 2. That Section 15-5-311, Idaho Code, be, and the same is hereby amended to read as follows:



15-5-311. WHO MAY BE GUARDIAN -- PRIORITIES. (1) Any competent person, except as set forth hereafter, or a suitable institution may be appointed guardian of an incapacitated person.

(2) The person preferred by the incapacitated person shall be appointed guardian unless good cause be shown why appointment of such person is contrary to the best interests of the incapacitated person. If the incapacitated person is unable to express a preference, any previous expression, including a durable power of attorney for health care, may be considered by the court.

(3) Persons who are not disqualified have priority for appointment as guardian in the following order:

(a) The person preferred by the incapacitated person. The court shall always consider the wishes expressed by an incapacitated person as to who shall be appointed guardian;

(b) The person(s) nominated as health care agent in a durable power of attorney for health care by the incapacitated person, in the order of priority set forth in such power;

(c) The spouse of the incapacitated person;

(d) An adult child of the incapacitated person;

(e) A parent of the incapacitated person, including a person nominated by will or other writing signed by a deceased parent;

(f) Any relative of the incapacitated person with whom he has resided for more than six (6) months prior to the filing of the petition;

(g) A person nominated by the person who is caring for him or paying benefits to him.

(4) No convicted felon, or person whose residence is the incapacitated person's proposed residence or will be frequented by the incapacitated person and is frequented by a convicted felon, shall be appointed as a guardian of an incapacitated person unless the court finds by clear and convincing evidence that such appointment is in the best interests of the incapacitated person.

(5) No individual shall be appointed as guardian of an incapacitated person unless all of the following first occurs:

(a) The proposed guardian has submitted to and paid for a criminal history and background check conducted pursuant to section 56-1004A(2) and (3), Idaho Code;

(b) Pursuant to an order of the court so requiring, any individual who resides in the incapacitated person's proposed residence has submitted, at the proposed guardian's expense, to a criminal history and background check conducted pursuant to section 56-1004A(2) and (3), Idaho Code;

(c) The findings of such criminal history and background checks have been made available to the visitor and guardian ad litem by the department of health and welfare; and

(d) The proposed guardian provided a report of his or her civil judgments and bankruptcies to the visitor, the guardian ad litem and all others entitled to notice of the guardianship proceeding pursuant to section 15-5-309, Idaho Code.

(6) The provisions of paragraphs (a) and (d) of subsection (5) of this section shall not apply to an institution nor to a legal or commercial entity.

(7) Each proposed guardian and each appointed guardian shall immediately report any change in his or her criminal history and any material change in the information required by subsection (5) of this section to the visitor, guardian ad litem, all others entitled to notice of the guardianship proceeding pursuant to section 15-5-309, Idaho Code, and to the court.

SECTION 3. That Section 15-5-316, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-316. GUARDIAN AD LITEM -- RIGHTS AND POWERS. (1) The guardian ad litem has the rights and powers set forth in this section, which shall continue until the resignation of the guardian ad litem or until the court removes the guardian ad litem or no longer has jurisdiction, whichever occurs first.

(2) The guardian ad litem shall have the right and power to file pleadings, motions, memoranda and briefs on behalf of the ward, and to have all of the rights of the ward, whether conferred by statute, rule of court, or otherwise.

(3) All parties to any proceeding under this chapter shall promptly notify the guardian ad litem, and the guardian's attorney, if any, of all hearings, staff hearings or meetings, investigations, depositions, and significant changes of circumstances of the ward.

(4) Except to the extent prohibited or regulated by federal law, upon presentation of a copy of the order appointing the guardian ad litem, any person or agency including, without limitation, any hospital, school organization, department of health and welfare, doctor, nurse or other health care provider, psychologist, psychiatrist, police department, or mental health clinic, shall permit the guardian ad litem to inspect and copy pertinent records relating to the ward necessary for the proceeding for which the guardian ad litem has been appointed.

(5) ~~The guardian ad litem shall have the discretionary authority to conduct may request, and the court may order whether in response to such request or otherwise, a criminal history and background check to be conducted at the proposed guardian's expense on a proposed guardian, conservator or person any individual who resides in or frequents the ward's proposed residence. Any such check shall be conducted pursuant to section 56-1004A(2) and (3), Idaho Code.~~

SECTION 4. That Section 56-1004A, Idaho Code, be, and the same is hereby amended to read as follows:

56-1004A. CRIMINAL HISTORY AND BACKGROUND CHECKS. (1) To assist in the protection of children and vulnerable adults, the legislature hereby authorizes the department of health and welfare to conduct criminal history and background checks of individuals who provide care or services to vulnerable adults or children and are identified in rule as being required to have a criminal history and background check.

(2) To further assist in the protection of vulnerable adults, the department of health and welfare may:

(a) Conduct criminal history and background checks of those seeking guardianship or conservatorship and those who reside in an incapacitated person's proposed residence;

(b) Make the findings of such criminal history and background checks available to visitors, guardians ad litem and evaluation committees appointed pursuant to chapter 5, title 15 or chapter 4, title 66, Idaho Code; and

(c) Promulgate such rules as are necessary to carry out the provisions of this section.

The provisions of subsection (6) of this section shall not apply to criminal history and background checks conducted pursuant to this subsection.

(3) Criminal history and background checks will be conducted by the department of health and welfare when:

(a) Required or ordered by the court pursuant to chapter 5, title 15 or chapter 4, title 66, Idaho Code;

(b) Requested by those required to undergo such checks; and

(c) Paid for in full by those required to undergo such checks.

(4) The criminal history and background check will be a fingerprint-based check of state and national records and may include information from the following:

- (a) Statewide criminal identification bureau;
- (b) Federal bureau of investigation (FBI);
- (c) National crime information center;
- (d) Statewide sex offender registry;
- (e) Idaho transportation department driving records;
- (f) Adult and child protection registries;
- (g) Nurse aide registry; and
- (h) Department of health and human services office of the inspector general list of excluded individuals and entities.

(35) The department of health and welfare shall promulgate rules to further define those individuals who are required to have a criminal history and background check and the effective date. Each individual shall complete an application, which includes a notarized signature, on forms provided by the department. The completed application authorizes the department to obtain and release information in accordance with state and federal law. The applicant must disclose all information requested, including information on past convictions, driver's license revocations, and known adult or child protection findings. Once an application has been completed, the employer, at its discretion, may allow the individual to provide care or services prior to the individual completing fingerprinting and pending completion of the criminal history and background check by the department. The department shall promulgate rules defining the time frame for submitting the application. Under no circumstances may the individual be allowed to provide care or services where the employer has reviewed the completed application and the individual has disclosed a designated crime as set forth in rule.

(46) The department shall review the information received from the criminal history and background check and determine whether the applicant has a criminal or other relevant record that would disqualify the individual. The department shall determine which crimes disqualify the applicant and for what period of time according to promulgated rules. The process for the check and the issuance of a clearance or denial is set forth in department rules. The applicant shall be provided an opportunity for a formal review of a denial. The department shall communicate clearance or denial to the applicant and the applicant's employer.

(57) Applicants are responsible for the cost of the criminal history and background check except where otherwise provided by department rules.

(68) The department, or an employer of an applicant, who acts in reasonable reliance on the results of the criminal history and background check in making an employment decision, is immune from liability for that decision when it is based on such results.

(79) The department, its officers and employees are immune from liability for the consequences of including or excluding classes of individuals in the criminal history and background check process.

(810) Clearance through the criminal history and background check process is not a determination of suitability for employment.

(911) Effective until September 30, 2007, or when federal funding is no longer available, the legislature hereby authorizes the department of health and welfare to participate in a federal pilot project to conduct criminal history and background checks of providers, employees and contractors who have access to patients in long-term care settings. Long-term care facilities or providers include nursing facilities, institutional care facilities for people with intellectual disabilities, residential or assisted living facilities, long-term care hospitals or hospitals with swing beds, and home health and hospice providers. The criminal history and background checks for the long-term care providers, employees and contractors will be funded through the federal grant at no cost to the long-term care providers,

employees or contractors until September 30, 2007, or the federal funding is no longer available.

SECTION 5. That Section 66-404, Idaho Code, be, and the same is hereby amended to read as follows:

66-404. PROCEEDINGS FOR APPOINTMENT OF GUARDIANS AND CONSERVATORS. (1) A ~~developmentally disabled person~~ with a developmental disability or any person interested in his welfare may petition for a finding of legal disability or partial legal disability and appointment of a guardian and/or conservator.

(2) The petition shall:

- (a) State the names and addresses of the persons entitled to notice under subsection (4) of this section;
- (b) Describe the impairments showing the respondent is developmentally disabled, the respondent's ability to receive, evaluate and communicate information, and the respondent's ability to manage financial resources and meet essential requirements for physical health or safety;
- (c) State the nature and scope of guardianship and/or conservatorship services sought;
- (d) Describe the respondent's financial condition, including significant assets, income and ability to pay for the costs of judicial proceedings; and
- (e) State if the appointment is made by will pursuant to section 15-5-301, Idaho Code, and the name(s) and address(es) of the person(s) named in the will to be guardian.

(3) Upon filing of a petition, the court shall set a date for a hearing, appoint an attorney to represent the respondent in the proceedings unless the respondent has an attorney, and authorize an evaluation committee to examine the respondent, interview the proposed guardians and/or conservators and report to the court in writing. The report shall contain:

- (a) A description of the nature and extent of the evaluation and the alleged impairments, if any;
- (b) A description of the respondent's mental, emotional and physical condition; educational status; and adaptive and social skills;
- (c) A description of the services, if any, needed by the respondent to meet essential requirements for physical health and safety, and/or manage financial resources;
- (d) A recommendation regarding the type and extent of guardianship or conservatorship assistance, if any, required by the respondent and why no less restrictive alternative would be appropriate;
- (e) An opinion regarding the probability that the extent of the respondent's disabilities may significantly lessen, and the type of services or treatment which may facilitate improvement in the respondent's behavior, condition, or skills;
- (f) The respondent's preference, if any, regarding the person or persons to be appointed as guardian and/or conservator;
- (g) The suitability of the person or persons proposed as guardian and/or conservator; and
- (h) The signature of each member of the evaluation committee with a statement of concurrence or nonconcurrence with the findings and any dissenting opinions or other comments of the members.

(4) Notice of the time and place of the hearing on the petition together with a copy of the petition shall be served no less than ten (10) days before the hearing on:

- (a) The respondent;
- (b) The respondent's spouse, parents and adult children, or if none, the respondent's closest relative, if any can be found; and

(c) Any person who is currently serving as guardian, conservator or who is providing care for the respondent.

Notice shall be served personally if the person to be served can be found within the state. If the person to be served cannot be found within the state, service shall be accomplished by registered mail to such person's last known address.

(5) The respondent is entitled to be present at the hearing in person, to present evidence, call and cross-examine witnesses, and to see or hear all evidence in the proceeding.

(6) At the hearing the court shall:

(a) Determine whether the respondent ~~is developmentally disabled~~ has a developmental disability;

(b) Evaluate the respondent's ability to meet essential requirements for physical health or safety and manage financial resources;

(c) Evaluate the ability of the proposed guardian and/or conservator to act in the respondent's best interests to manage the respondent's financial resources and meet essential requirements for the respondent's physical health or safety;

(d) Determine the nature and scope of guardianship or conservatorship services necessary to protect and promote the respondent's well-being; and

(e) Evaluate the ability of the respondent or those legally responsible to pay the costs associated with the judicial proceedings and fix responsibility therefor.

(7) No individual shall be appointed as guardian or conservator of an incapacitated person unless all of the following first occurs:

(a) The proposed guardian or conservator has submitted to and paid for a criminal history and background check conducted pursuant to section 56-1004A(2) and (3), Idaho Code;

(b) In the case of a petition for guardianship and pursuant to an order of the court so requiring, any individual who resides in the incapacitated person's proposed residence has submitted, at the proposed guardian's expense, to a criminal history and background check conducted pursuant to section 56-1004A(2) and (3), Idaho Code;

(c) The findings of such criminal history and background checks have been made available to the evaluation committee by the department of health and welfare; and

(d) The proposed guardian or conservator provided a report of his or her civil judgments and bankruptcies to the evaluation committee and all others entitled to notice of the guardianship or conservatorship proceeding pursuant to subsection (4) of this section.

(8) The provisions of paragraphs (a) and (d) of subsection (7) of this section shall not apply to an institution nor to a legal or commercial entity.

(9) Each proposed guardian and conservator and each appointed guardian and conservator shall immediately report any change in his or her criminal history and any material change in the information required by subsection (7) of this section to the evaluation committee, all others entitled to notice of the guardianship or conservatorship proceeding pursuant to subsection (4) of this section and to the court.

SECTION 6. 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 ~~is not developmentally disabled~~ 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 ~~is developmentally disabled~~ 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 ~~is developmentally disabled~~ 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; and
- (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.

(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<sub>7</sub> who has information that medically necessary treatment of a respondent has been withheld or withdrawn<sub>7</sub> may report such information to adult protective services or to the Idaho protection and advocacy system for people with developmental disabilities, ~~who~~ 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 ~~is not developmentally disabled~~ does not have a developmental disability;

(b) Consent to experimental surgery, procedures or medications; or

(c) Delegate the powers granted by the order.

CHAPTER 263  
(H.B. No. 138)

AN ACT

RELATING TO PLATS AND VACATIONS; AMENDING SECTION 50-1310, IDAHO CODE, TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO ACCEPTABLE METHODS OF COPYING A PLAT AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 50-1310, Idaho Code, be, and the same is hereby amended to read as follows:

50-1310. FILING AND RECORDING -- RECORD OF PLATS -- FILING OF COPY. (1) All approved plats of subdivisions shall, upon the payment of the required fees, be filed by the county clerk or county recorder, and such filing with the date thereof shall be ~~indersed~~ endorsed thereon. The plat or opaque copy thereof shall then be bound or filed with other plats of like character in a proper book or file designated as "Records of Plats."

(2) At the time of filing such plat, the owner or his representative shall also file with the county clerk or county recorder one (1) copy thereof. The copy shall be upon stable base drafting film with a minimum base thickness of 0.003 inches. The image thereon shall be by a photographic process using a silver image emulsion, or a process by which a copy is produced using a copy machine or by digital scanning and reproduction using black opaque drafting film ink. If a copy machine or ink is used, the surface shall be coated with a suitable substance to assure permanent legibility. The copy and image thereon shall be waterproof, tear-resistant, flexible, and capable of withstanding repeated handling, as well as providing archival permanence. The original plat shall be stored for ~~safe-keeping~~ safekeeping in a reproducible condition by the county. It shall be proper for the recorder to maintain for public reference a set of counter maps that are prints of the original maps. The original maps shall be produced for comparison upon demand. Full scale copies thereof shall be made available to the public, at the cost allowed in section 31-3205, Idaho Code, by the county recorder.

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 April 3, 2013.

CHAPTER 264  
(H.B. No. 171, As Amended)

AN ACT

RELATING TO HIGHWAYS; AMENDING SECTION 40-2319, IDAHO CODE, TO PROVIDE THAT THE COUNTY OR HIGHWAY DISTRICT HAS ACTUAL NOTICE OF AN ENCROACHMENT THAT IS UNSAFE FOR PEDESTRIANS OR MOTORISTS, TO REVISE TERMINOLOGY, TO PROVIDE THAT AN OWNER, OCCUPANT OR PERSON CONTROLLING AN ENCROACHMENT MUST FAIL TO RESPOND TO NOTICE TO REMOVE AN ENCROACHMENT, TO PROVIDE FOR THE STANDARD OF CARE FOR THE COUNTY OR HIGHWAY DISTRICT, TO PROVIDE THAT THE



COUNTY OR HIGHWAY DISTRICT SHALL NOT BE LIABLE FOR ANY INJURY OR DAMAGE CAUSED BY AN ENCROACHMENT OR FAILURE TO REMOVE AN UNAUTHORIZED ENCROACHMENT UPON A HIGHWAY AND TO ESTABLISH PROVISIONS RELATING TO ANY DEFENSE THE COUNTY OR HIGHWAY DISTRICT MAY ASSERT IN A CIVIL ACTION.

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

SECTION 1. That Section 40-2319, Idaho Code, be, and the same is hereby amended to read as follows:

40-2319. ENCROACHMENTS -- REMOVAL -- NOTICE -- PENALTY FOR FAILURE TO REMOVE -- REMOVAL BY COUNTY OR HIGHWAY DISTRICT -- ABATEMENT. (1) If any highway or public right-of-way under the jurisdiction of a county or highway district is encroached upon by gates, fences, buildings, or otherwise, the appropriate county or highway district may require the encroachment to be removed.

(2) If the county or highway district has actual notice of an encroachment that is of a nature as to effectually obstruct and prevent the use of an open highway for vehicles or is unsafe for pedestrian or motorist use of an open highway, the county or highway district shall immediately cause the encroachment to be removed without notice.

(23) If the county or highway district elects to remove an encroachment as provided for in subsection (1) of this section, nNotice shall be given to the occupant or owner of the land, or person causing or owning the encroachment, or left at his place of residence if he resides in the highway jurisdiction. If not, it shall be posted on the encroachment, specifying the place and extent of the encroachment, and requiring him to remove the encroachment within ten (10) days.

(3a) If the encroachment is not removed, or commenced to be removed, prior to the expiration of ten (10) days from the service or posting the notice, the person who caused, owns or controls the encroachment shall forfeit up to one hundred fifty dollars (\$150) for each day the encroachment continues unremoved.;

(4b) If the encroachment is denied, and the owner, occupant, or person controlling the encroachment, refuses either to remove it or to permit its removal, the county or highway district shall commence in the proper court an action to abate the encroachment as a nuisance. If the county or highway district recovers judgment, it may, in addition to having the encroachment abated, recover up to one hundred fifty dollars (\$150) for every day the nuisance encroachment remained after notice, as well as costs of the legal action and removal.; or

(5c) If the eneroachment is not denied, but is not removed owner, occupant or person controlling the encroachment fails to respond to the notice within five (5) days after the notice is complete, the county or highway district may remove it at the expense of the owner, occupant, or person controlling the encroachment, and the county or highway district may recover costs and expenses, as well as the sum of up to one hundred fifty dollars (\$150) for each day the encroachment remained after notice was complete.

(4) The duties referenced in the provisions of this section, whether statutory or common law, require reasonable care only and shall not be construed to impose strict liability or to otherwise enlarge the liability of the county or highway district. The county or highway district, while responsible for their own acts or omissions, shall not be liable for any injury or damage caused by or arising from the encroachment or the failure to remove or abate the encroachment as provided for in subsection (1) of this section. The provision of this section shall not be construed to impair any defense that the county or highway district may assert in a civil action.

(5) Nothing in this chapter shall be construed to limit, abrogate or supersede the provisions of this title governing the power, authority or jurisdiction of a county or highway district, including the authority to regulate the use of highways or public rights-of-way for pedestrian and motorist safety.

Approved April 3, 2013.

CHAPTER 265  
(H.B. No. 196)

AN ACT

RELATING TO CREDITS FOR ASSESSMENTS PAID; AMENDING SECTION 41-3616, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE TIMING OF PERMITTED IDAHO PREMIUM TAX OFFSETS BY MEMBER INSURERS AND TO PROVIDE FOR AN OFFSET AGAINST PREMIUM TAX LIABILITY TO THE INDUSTRIAL ADMINISTRATION FUND FOR AN INSURER THAT IS EXEMPT FROM THE PREMIUM TAX; AND AMENDING SECTION 41-4313, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE TIMING OF PERMITTED IDAHO PREMIUM TAX OFFSETS BY MEMBER INSURERS AND TO REMOVE REDUNDANT LANGUAGE.

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

SECTION 1. That Section 41-3616, Idaho Code, be, and the same is hereby amended to read as follows:

41-3616. CREDITS FOR ASSESSMENTS PAID. (1) A member insurer may offset against its premium tax liability to this state under section 41-402, Idaho Code, an assessment described in subsection (1) (d) of section 41-3608, Idaho Code. ~~An insurer that is exempt from the premium tax imposed by section 41-402, Idaho Code, may offset its premium tax liability to the industrial administration fund.~~ An offset is allowable to the extent of twenty percent (20%) of the amount of such assessment for each of the five (5) calendar years following the year in which such assessment was paid beginning with the premium tax due under section 41-402(4), Idaho Code, with respect to the year of payment of the assessment and thereafter with the premium tax due under section 41-402(4), Idaho Code, during each of the four (4) succeeding years. An allowable offset, or portion thereof, not used in any calendar year cannot be carried over or back to any other year. An insurer that is exempt from the premium tax imposed by section 41-402, Idaho Code, may offset against its premium tax liability to the industrial administration fund in the same manner as an offset to the premium tax imposed by section 41-402(4).

(2) Notwithstanding any provision to the contrary in section 41-3608(2)(f), Idaho Code, any sums acquired by refund from insurance company receiverships by the association which have heretofore been written off by contributing insurers and offset against premium taxes as provided in subsection (1) of this section, and 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, shall be paid by the association to the director and by him deposited with the state treasurer for credit to the state general fund.

SECTION 2. That Section 41-4313, Idaho Code, be, and the same is hereby amended to read as follows:

41-4313. CREDITS FOR ASSESSMENTS PAID. (1) A member insurer may offset against its premium tax liability to this state an assessment described in section 41-4309(8), Idaho Code, to the extent of twenty percent (20%) of the

amount of the assessment for each of the five (5) calendar years following the year in which the assessment was paid beginning with the premium tax due under section 41-402(4), Idaho Code, with respect to the year of payment of the assessment and thereafter with the premium tax due under section 41-402(4), Idaho Code, during each of the four (4) succeeding years. An allowable offset, or portion thereof, not used in any calendar year cannot be carried over or back to any other year.

(2) Any sums acquired by refund, pursuant to section 41-4309(6), Idaho Code, from the association which have theretofore been written off by contributing insurers and offset against premium taxes as provided in subsection (1) of this section, and are not then needed for purposes of this chapter, shall be paid by the association to the director and by him deposited with the state treasurer for credit to the general account of the state operating fund.

~~(3) Any sums acquired by refund, pursuant to section 41-4309(6), Idaho Code, from the association which have theretofore been written off by contributing insurers and offset against premium taxes as provided in subsection (1) of this section, and are not then needed for purposes of this chapter, shall be paid by the association to the director and by him deposited with the state treasurer for credit to the general account of the state operating fund.~~

Approved April 3, 2013.

CHAPTER 266  
(H.B. No. 197)

AN ACT

RELATING TO INSURANCE HOLDING COMPANY SYSTEMS; REPEALING CHAPTER 38, TITLE 41, IDAHO CODE, RELATING TO INSURANCE HOLDING COMPANY SYSTEMS; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 38, TITLE 41, IDAHO CODE, TO STATE THE PURPOSE, TO DEFINE TERMS, TO PROVIDE FOR INVESTMENT IN SUBSIDIARIES, TO PROVIDE FOR THE FILING OF A STATEMENT PRIOR TO A MERGER OR CHANGE IN CONTROL OR DIVESTITURE OF CONTROLLING INTEREST OF A DOMESTIC INSURER, TO PROVIDE FOR A SIMILAR STATEMENT PRIOR TO ANY INVITATION FOR A TENDER OFFER OF CONTROL, TO PROVIDE FOR THE APPROVAL OR DISAPPROVAL OF A MERGER OR CHANGE IN CONTROL AND ESTABLISH THE PROCEDURE OF HEARINGS, TO PROVIDE FOR NOTICE OF ANY HEARING FROM THE INSURER TO ITS SHAREHOLDERS, TO PROVIDE FOR PREACQUISITION NOTICE OF A CHANGE IN CONTROL OF OTHER INSURERS AND EXEMPTIONS, TO PROVIDE FOR REGISTRATION OF HOLDING COMPANY SYSTEMS BY INSURERS, TO PROVIDE FOR STANDARDS AND MANAGEMENT CONCERNING TRANSACTIONS WITHIN AN INSURANCE HOLDING COMPANY SYSTEM, TO PROVIDE FOR GUIDANCE ON DETERMINING THE REASONABLENESS AND ADEQUACY OF AN INSURER'S SURPLUS, TO REQUIRE ADVANCE NOTICE OF DIVIDENDS AND DISTRIBUTIONS, TO PROVIDE MANAGEMENT GUIDELINES OF DOMESTIC INSURERS AND TO PROVIDE AN EXEMPTION, TO PROVIDE EXAMINATION AUTHORITY, TO AUTHORIZE THE DIRECTOR TO PARTICIPATE IN SUPERVISORY COLLEGES WITH OTHER REGULATORS, TO PROVIDE FOR CONFIDENTIAL TREATMENT OF RECORDS AND TO AUTHORIZE THE DIRECTOR TO SHARE SUCH RECORDS, TO PROVIDE FOR RULEMAKING AUTHORITY, TO AUTHORIZE THE DIRECTOR TO SEEK INJUNCTIVE RELIEF AND TO PROVIDE FOR LIMITS ON VOTING SECURITIES, TO PROVIDE FOR SANCTIONS, TO AUTHORIZE RECEIVERSHIP, TO AUTHORIZE RECOVERY OF DISTRIBUTIONS OR PAYMENTS BY THE DIRECTOR, TO AUTHORIZE ACTION AGAINST AN INSURER'S CERTIFICATE OF AUTHORITY, TO PROVIDE FOR JUDICIAL REVIEW AND MANDAMUS, TO PROVIDE FOR MUTUAL INSURANCE HOLDING COMPANIES, AND TO PROVIDE FOR SEVERABILITY; AMENDING SECTION 41-706, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION

41-714, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 41-715, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-731, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 41-733, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTIONS 41-901 AND 41-1702, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-1951, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE, TO PROVIDE A CORRECT CITE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-2857, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-3312, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTIONS 41-4703 AND 41-5203, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Chapter 38, Title 41, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 38, Title 41, Idaho Code, and to read as follows:

#### CHAPTER 38

##### ACQUISITIONS OF CONTROL AND INSURANCE HOLDING COMPANY SYSTEMS

41-3801. PURPOSE. The purpose of this chapter is to prevent acquisition or divestiture of control of an insurer or a holding company system of which an insurer is a part where such acquisition would be adverse to the public interest and the interests of policyholders and shareholders. A further purpose of this chapter is to promote the public interest and the interests of policyholders and shareholders by facilitating, consistent with those interests, better use of management skills and services, diversification through acquisitions, free access to capital markets, sound tax planning and open competition. An additional purpose is to monitor and regulate insurance holding company systems.

41-3802. DEFINITIONS. As used in this chapter the following terms shall have the following meanings:

(1) "Affiliate" of, or a person "affiliated" with, a specific person, means a person who directly or indirectly through one (1) or more intermediaries controls or is controlled by, or is under common control with, the person specified.

(2) "Control," including "controlling," "controlled by" and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or a corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided in section 41-3809(11), Idaho Code, that control does not exist in fact. The director may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(3) "Enterprise risk" means any activity, circumstance, event or series of events involving one (1) or more affiliates of an insurer that, if not

remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole including, but not limited to, anything that would cause the insurer's risk-based capital to fall into company action level as set forth in section 41-5403, Idaho Code, or would cause the insurer to be in hazardous financial condition as set forth by rule in IDAPA 18.01.66.

(4) "Insurance holding company system" means two (2) or more affiliated persons, one (1) or more of whom is an insurer.

(5) "Insurer" has the same meaning as that set forth in section 41-103, Idaho Code, except that it shall not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia or a state or political subdivision of a state.

(6) "Person" means an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a business trust, an unincorporated organization, or any similar entity or any combination of the foregoing acting in concert, but shall not include any joint venture partnership exclusively engaged in owning, managing, leasing or developing real or tangible personal property.

(7) "Security holder" means a person who owns any security of a specified person, including common stock, preferred stock, debt obligations and any other security convertible into or evidencing the right to acquire any of the foregoing.

(8) "Subsidiary" means a specified person who is an affiliate controlled by such person directly or indirectly through one (1) or more intermediaries.

(9) "Voting security" means any security convertible into or evidencing a right to acquire a voting security.

41-3803. SUBSIDIARIES OF INSURERS. (1) A domestic insurer, either by itself or in cooperation with one (1) or more persons, may organize or acquire one (1) or more subsidiaries. The subsidiaries may conduct any kind of business or businesses and their authority to do so shall not be limited by reason of the fact that they are subsidiaries of a domestic insurer.

(2) In addition to investments in common stock, preferred stock, debt obligations and other securities permitted under title 41, Idaho Code, a domestic insurer may also:

(a) Invest in common stock, preferred stock, debt obligations and other securities of one (1) or more subsidiaries in amounts that do not exceed the lesser of ten percent (10%) of the insurer's assets or fifty percent (50%) of the insurer's surplus regarding policyholders, provided that after making such investments, the insurer's surplus regarding policyholders will be reasonable in relation to the insurer's outstanding liabilities and will be adequate to meet its financial needs. In calculating the amount of such investments, investments in domestic or foreign insurance subsidiaries shall be excluded, but the following shall be included:

(i) Total net moneys or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities; and

(ii) All amounts expended in acquiring additional common stock, preferred stock, debt obligations and other securities and all contributions to the capital or surplus of a subsidiary subsequent to its acquisition or formation.

(b) Invest any amount in common stock, preferred stock, debt obligations and other securities of one (1) or more subsidiaries engaged or organized to engage exclusively in the ownership and management of as-

sets authorized as investments for the insurer, provided that each subsidiary agrees to limit its investment in any asset so that the investment will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in paragraph (a) of this subsection or in chapter 7, title 41, Idaho Code, applicable to the insurer. For the purpose of this section, "the total investment of the insurer" shall include:

- (i) Any direct investment by the insurer in an asset; and
- (ii) The insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the ownership of the subsidiary.

(c) With the approval of the director, invest any greater amount in common stock, preferred stock, debt obligations or other securities of one (1) or more subsidiaries, provided that after making the investment, the insurer's surplus regarding policyholders will be reasonable in relation to the insurer's outstanding liabilities and will be adequate to its financial needs.

(3) Investments in common stock, preferred stock, debt obligations or other securities of subsidiaries made pursuant to subsection (2) (a) of this section shall not be subject to any of the otherwise applicable restrictions or prohibitions contained in title 41, Idaho Code, applicable to such investments of insurers.

(4) Whether any investment made pursuant to subsection (2) of this section meets the applicable requirements thereof is to be determined before the investment is made by calculating the applicable investment limitations as though the investment had already been made, taking into account the then outstanding principal balance on all previous investments in debt obligations and the value of all previous investments in equity securities as of the day they were made, net of any return of capital invested, not including dividends.

(5) If an insurer ceases to control a subsidiary, it shall dispose of any investment therein made pursuant to this section within three (3) years from the time of the cessation of control or within such further time as the director may prescribe, unless at any time after the investment shall have been made the investment shall have met the requirements for investment under any other section of title 41, Idaho Code, and the insurer has so notified the director.

41-3804. ACQUISITION OF CONTROL OF CONTROLLING INTEREST WITH DOMESTIC INSURER -- ACQUISITION OF MERGER OR DIVESTITURE OF CONTROLLING INTEREST WITH DOMESTIC INSURER. (1) The following filing requirements shall apply:

(a) No person other than the issuer shall make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, such person would, directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of the insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer or any person controlling a domestic insurer unless, at the time the offer, request or invitation is made or the agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved, such person has filed with the director and has sent to the insurer, a statement containing the information required by this section and the offer, request, invitation, agreement or acquisition has been approved by the director in the manner prescribed in this chapter.

(b) For purposes of this section, any controlling person of a domestic insurer seeking to divest his controlling interest of the domestic

insurer, in any manner, shall file with the director, with a copy to the insurer, confidential notice of his proposed divestiture at least thirty (30) days prior to the cessation of control. The director shall determine those instances in which the party seeking to divest or to acquire a controlling interest in an insurer will be required to file for and obtain approval of the transaction. The information shall remain confidential until the conclusion of the transaction unless the director, in his discretion, determines that confidential treatment will interfere with or impede enforcement of this section. If the statement referred to in paragraph (a) of this subsection is otherwise filed, this section shall not apply.

(c) With respect to a transaction subject to this section, the acquiring or divesting person must also file a preacquisition notification with the director that contains the information set forth in section 41-3808(3) (a), Idaho Code, at least thirty (30) days prior to the proposed effective date of the acquisition. A failure to timely file the notification may subject the acquiring or divesting person to penalties as specified in section 41-3808(5) (e), Idaho Code.

(d) For purposes of this section, a domestic insurer shall include any person controlling a domestic insurer unless the person, as determined by the director, is either directly or through his affiliates primarily engaged in business other than the business of insurance. For the purposes of this section, "person" shall not include any securities broker holding, in the usual and customary broker's function, less than twenty percent (20%) of the voting securities of an insurance company or of any person who controls an insurance company.

(2) The statement to be filed with the director as referenced in this section shall be made under oath or affirmation and shall contain the following:

(a) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subsection (1) of this section is to be effected, hereinafter called the "acquiring party"; and

(i) If the person is an individual, his principal occupation and all offices and positions held during the past five (5) years and any conviction of crimes other than minor traffic violations during the past ten (10) years;

(ii) If the person is not an individual, a report of the nature of its business operations during the past five (5) years or for the lesser period as the person and any predecessors shall have been in existence; a detailed description of the business intended to be conducted by the person and the person's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of the person, or who perform or will perform functions appropriate to such positions. The list shall include, for each individual, the information required by paragraph (a) (i) of this subsection; and

(iii) For individuals who are directors or executive officers of an entity, the information from time to time that is specified by the director on the biographical affidavit form prescribed by the department of insurance;

(b) The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction where funds were or are to be obtained for any such purpose, including any pledge of the insurer's stock or the stock of any of its subsidiaries or controlling affiliates, and the identity of persons furnishing consideration;

(c) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five (5) fiscal

years of each acquiring party, or for such lesser period as the acquiring party and any predecessors shall have been in existence, and similar unaudited information as of a date not earlier than ninety (90) days prior to the filing of the statement;

(d) Any plans or proposals that each acquiring party may have to liquidate the insurer, to sell the insurer's assets or merge or consolidate the insurer with any person, or to make any other material change in the insurer's business or corporate structure or management;

(e) The number of shares of any security referred to in subsection (1) of this section that each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement or acquisition referred to in subsection (1) of this section, and a statement as to the method by which the fairness of the proposal was determined;

(f) The amount of each class of any security referred to in subsection (1) of this section which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;

(g) A full description of any contracts, arrangements or understandings with respect to any security referred to in subsection (1) of this section in which any acquiring party is involved including, but not limited to, transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. The description shall identify the persons with whom the contracts, arrangements or understandings have been entered into;

(h) A description of the purchase of any security referred to in subsection (1) of this section during the twelve (12) calendar months preceding the filing of the statement required by this section by any acquiring party, including the dates of purchase, names of the purchasers and consideration paid or agreed to be paid;

(i) A description of any recommendations to purchase any security referred to in subsection (1) of this section made during the twelve (12) calendar months preceding the filing of the statement by any acquiring party or by anyone based upon interviews or at the suggestion of the acquiring party;

(j) Copies of all tender offers for, requests or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in subsection (1) of this section, and if distributed, of additional solicitation material relating thereto;

(k) The term of any agreement, contract or understanding made with, or proposed to be made with, any broker-dealer as to solicitation of securities referred to in subsection (1) of this section for tender and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto;

(l) An agreement by the person required to file the statement referenced in subsection (1) of this section that it will provide the annual report specified in section 41-3809(12), Idaho Code, for so long as its control exists;

(m) An acknowledgment by the person required to file the statement referenced in subsection (1) of this section that the person and all subsidiaries within its control in the insurance holding company system will provide information to the director upon request as necessary to evaluate enterprise risk to the insurer; and

(n) Such additional information as the director may prescribe by rule as necessary or appropriate for the protection of policyholders and security holders of the insurer or in the director's determination is in the public interest.



(3) If the person required to file the statement referenced in subsection (1) of this section is a partnership, limited partnership, syndicate or other group, the director may require that the information required by subsection (2) (a) through (n) of this section shall be provided to the director with respect to each partner of the partnership or limited partnership, each member of the syndicate or group, and each person who controls the partner or member. If any partner, member or person is a corporation, or the person required to file the statement referenced in subsection (1) of this section is a corporation, the director may require that the information required by subsection (2) (a) through (n) of this section shall be provided to the director with respect to the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of more than ten percent (10%) of the outstanding voting securities of the corporation.

(4) If any material change occurs in the facts set forth in the statement filed with the director and sent to the insurer pursuant to this section, an amendment setting forth the change, together with copies of all documents and other material relevant to the change, shall be filed with the director and sent to the insurer within two (2) business days after the person learns of the change.

(5) If any offer, request, invitation, agreement or acquisition referenced in subsection (1) of this section is proposed to be made by means of a registration statement under the securities act of 1933, or in circumstances requiring the disclosure of similar information under the securities exchange act of 1934, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in subsection (1) of this section may use the documents in furnishing the information required by that statement.

41-3805. TENDER OFFER MATERIAL. All requests or invitations for tenders or advertisements making a tender offer or requesting or inviting tenders of such voting securities for control of a domestic insurer made by or on behalf of any person shall contain the information specified in section 41-3804, Idaho Code, as the director may prescribe and shall be filed with the director at least ten (10) days prior to the time such material is first published or sent or provided to security holders. Copies of any additional material soliciting or requesting such tender offers subsequent to the initial solicitation or request shall contain information as the director may prescribe as necessary or appropriate in the public interest or for the protection of policyholders and stockholders and shall be filed with the director at least ten (10) days prior to the time copies of the material are first published or sent or provided to security holders.

41-3806. APPROVAL BY DIRECTOR -- HEARINGS. (1) The director shall approve any purchase, exchange, merger or other acquisition of control referred to in section 41-3804(1), Idaho Code, or in section 41-3824, Idaho Code, unless, after a public hearing, the director finds that:

(a) After the change of control, the domestic insurer referenced in section 41-3804(1), Idaho Code, would be unable to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(b) The effect of the purchase, exchange, merger or other acquisition of control would substantially lessen competition in the business of insurance in this state or tend to create a monopoly. In applying the competitive standard in this paragraph:

(i) The informational requirements of section 41-3808(3) (a), Idaho Code, and the standards of section 41-3808(4) (b), Idaho Code, shall apply;

- (ii) The merger or other acquisition shall not be disapproved if the director finds that any of the situations meeting the criteria provided by section 41-3808 (4) (c) , Idaho Code, exist; and
- (iii) The director may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time;

(c) The financial condition of any acquiring party may jeopardize the financial stability of the insurer or prejudice the interest of its policyholders or, in the case of an acquisition of control, the interest of any remaining stockholders who are unaffiliated with the acquiring person;

(d) The plans or proposals of the acquiring party to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and are not in the public interest;

(e) The competence, experience and integrity of the persons who would control the operation of the insurer are such that it would not be in the interest of policyholders and stockholders of the insurer or of the public to permit the merger or other acquisition of control; or

(f) The acquisition is likely to be hazardous or prejudicial to the insurance-buying public.

(2) The public hearing referenced in subsection (1) of this section shall be held within thirty-five (35) days after the statement required by section 41-3804(1), Idaho Code, is filed or as otherwise agreed to by the director and the person filing the statement, and at least twenty-one (21) days' notice of such hearing shall be given by the director to the person filing the statement. Not less than seven (7) days' notice of the public hearing shall be given by the person filing the statement to the insurer and to such other persons as may be designated by the director. All discovery proceedings to the extent agreed to by the parties or allowed by the director shall be concluded not later than three (3) business days prior to the commencement of the public hearing. The director shall make a determination within fifty-six (56) days after conclusion of such hearing. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interest may be affected shall have the right to present evidence, examine and cross-examine witnesses, and offer oral and written arguments and shall be entitled to conduct discovery proceedings in the same manner as allowed under chapter 2, title 41, Idaho Code, and applicable rules.

(3) If the proposed acquisition of control will require the approval of more than one (1) commissioner, the public hearing referenced in subsection (2) of this section may be held on a consolidated basis, upon written request to all affected commissioners by the person filing the statement referenced in section 41-3804(1), Idaho Code. Such person shall file the statement referenced in section 41-3804(1), Idaho Code, with the national association of insurance commissioners within five (5) days of making the request for a public hearing. A commissioner may opt out of a consolidated hearing and shall provide notice to the applicant of the opt-out within fourteen (14) days of the receipt of the statement referenced in section 41-3804(1), Idaho Code. A hearing conducted on a consolidated basis shall be public and shall be held within the United States before the commissioners of the states in which the affected insurers are domiciled. Such commissioners shall hear and receive evidence. A commissioner may attend such hearing in person or by telecommunication.

(4) In connection with a change of control of a domestic insurer, any determination by the director that the person acquiring control of the insurer shall be required to maintain or restore the capital of the insurer to the level required by the laws and regulations of this state shall be made

not later than sixty (60) days after the date of notification of the change in control submitted pursuant to section 41-3804(1) (a) of this chapter. Failure of the director to provide a determination within the prescribed time shall not negate the application of capital requirements otherwise required by title 41, Idaho Code, but may affect the time within which such requirements must be met.

(5) The director may retain at the acquiring person's expense any attorneys, actuaries, accountants and other experts not otherwise a part of the director's staff as may be reasonably necessary to assist the director in reviewing the proposed acquisition of control. The director may require the acquiring party to post a bond in an amount not to exceed twenty-five thousand dollars (\$25,000) as security for payment of such expenses.

(6) The provisions of this section shall not apply to any offer, request, invitation, agreement or acquisition that the director by order shall exempt as not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer, or as otherwise not anticipated by this section.

(7) The following shall be violations of this section:

(a) The failure to file any statement, amendment or other material required to be filed pursuant to the provisions of section 41-3804(1) or (2), Idaho Code; or

(b) The effectuation or any attempt to effectuate an acquisition of control of, divestiture of, or merger with a domestic insurer unless the director has given prior approval.

(8) The district courts of the state of Idaho are hereby vested with jurisdiction over every person not resident, domiciled or authorized to do business in this state who files a statement with the director under the provisions of section 41-3804, Idaho Code, and over all actions involving such person arising out of violations of this section, and each such person shall be deemed to have performed acts equivalent to and constituting an appointment by the person of the director to be his true and lawful attorney upon whom may be served all lawful process in any action, suit or proceeding arising out of violations of this section. Copies of all lawful process shall be served on the director and transmitted by registered or certified mail by the director to the person at his last known address.

41-3807. MAILING -- PAYMENT OF EXPENSES. (1) All notices of public hearings held pursuant to section 41-3806, Idaho Code, shall be mailed by the insurer to its shareholders within five (5) business days after the insurer has received such notices. The expenses of such mailing shall be borne by the person making the filing. As security for the payment of such expenses, such person shall file with the director a bond or other deposit deemed acceptable and in an amount determined by the director.

(2) The provisions of this section shall not apply to any offers, requests, invitations, agreements or acquisitions by the person referred to in section 41-3804, Idaho Code, of any voting security referred to in section 41-3804, Idaho Code, which, immediately prior to the consummation of such offer, request, invitation, agreement or acquisition, was not issued and outstanding.

41-3808. ACQUISITIONS INVOLVING INSURERS NOT OTHERWISE COVERED. (1) The following definitions shall apply for the purposes of this section only:

(a) "Acquisition" means any agreement, arrangement or activity, the consummation of which results in a person acquiring directly or indirectly the control of another person, and includes, but is not limited to, the acquisition of voting securities, the acquisition of assets, bulk reinsurance and mergers;

(b) "Involved insurer" means an insurer that either acquires or is acquired, is affiliated with an acquirer or acquired, or is the result of a merger.

(2) This section applies to any acquisition in which there is a change in control of an insurer authorized to do business in this state. This section shall not apply to the following:

(a) An acquisition subject to approval or disapproval by the director pursuant to sections 41-3804 and 41-3806, Idaho Code;

(b) A purchase of securities solely for investment purposes, so long as the securities are not used by voting or otherwise to cause or attempt to cause the substantial lessening of competition in any insurance market in this state. If a purchase of securities results in a presumption of control under the provisions of section 41-3802(2), Idaho Code, it is not solely for investment purposes unless the commissioner of the insurer's state of domicile accepts a disclaimer of control or affirmatively finds that control does not exist, and the disclaimer action or affirmative finding is communicated by the domiciliary commissioner to the director;

(c) The acquisition of a person by another person when both persons are neither directly nor through affiliates primarily engaged in the business of insurance, if preacquisition notification is filed with the director in accordance with subsection (3) (a) of this section thirty (30) days prior to the proposed effective date of the acquisition. However, such preacquisition notification is not required for exclusion from this section if the acquisition would otherwise be excluded from this section by any other subsection of this section;

(d) The acquisition of already affiliated persons;

(e) An acquisition if, as an immediate result of the acquisition:

(i) In no market would the combined market share of the involved insurers exceeds five percent (5%) of the total market;

(ii) There would be no increase in any market share; or

(iii) In no market would:

1. The combined market share of the involved insurers exceeds twelve percent (12%) of the total market; and

2. The market share increases by more than two percent (2%) of the total market.

For the purpose of paragraph (e) of this subsection, a market means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state;

(f) An acquisition for which a preacquisition notification would be required pursuant to the provisions of this section due solely to the resulting effect on the ocean marine insurance line of business; or

(g) An acquisition of an insurer whose domiciliary commissioner affirmatively finds that the insurer is in failing condition; there is a lack of feasible alternative to improving such condition; the public benefits of improving the insurer's condition through the acquisition exceed the public benefits that would arise from not lessening competition; and the findings are communicated by the domiciliary commissioner to the director.

(3) An acquisition covered by subsection (2) of this section may be subject to the issuance of an order pursuant to subsection (5) of this section, unless the acquiring person files a preacquisition notification and the waiting period has expired. The acquired person may file a preacquisition notification with the director. The director shall give confidential treatment to information submitted under the provisions of this subsection in the same manner as provided in section 41-3816, Idaho Code.

(a) The preacquisition notification shall be in such form and contain such information as prescribed by the director relating to those mar-

kets which, under subsection (2) (e) of this section, cause the acquisition not to be exempted from the provisions of this section. The director may require such additional material and information as deemed necessary to determine whether the proposed acquisition, if consummated, would violate the competitive standard of subsection (4) of this section. The required information may include an opinion of an economist as to the competitive impact of the acquisition in this state accompanied by a summary of the education and experience of such person indicating his ability to render an informed opinion.

(b) The waiting period required shall begin on the date of receipt by the director of a preacquisition notification and shall end on the earlier of the thirtieth day after the date of receipt or termination of the waiting period by the director. Prior to the end of the waiting period, the director may require the submission of additional needed information relevant to the proposed acquisition, in which event the waiting period shall end on the earlier of the thirtieth day after receipt of the additional information by the director or termination of the waiting period by the director.

(4) (a) The director may enter an order under subsection (5) (a) of this section with respect to an acquisition if there is substantial evidence that the effect of the acquisition may be substantially to lessen competition in any line of insurance in this state or tend to create a monopoly, or if the insurer fails to file adequate information in compliance with subsection (3) of this section.

(b) In determining whether a proposed acquisition would violate the competitive standard of paragraph (a) of this subsection, the director shall consider the following:

(i) Any acquisition covered under subsection (2) of this section involving two (2) or more insurers competing in the same market is prima facie evidence of violation of the competitive standards.

1. If the market is highly concentrated and the involved insurers possess the following shares of the market:

Insurer A	Insurer B
4%	4% or more
10%	2% or more
15%	1% or more

2. Or, if the market is not highly concentrated and the involved insurers possess the following shares of the market:

Insurer A	Insurer B
5%	5% or more
10%	4% or more
15%	3% or more
19%	1% or more

A highly concentrated market is one in which the share of the four (4) largest insurers is seventy-five percent (75%) or more of the market. Percentages not shown in the tables are interpolated proportionately to the percentages that are shown. If more than two (2) insurers are involved, exceeding the total of the two (2) columns in the table is prima facie evidence of violation of the competitive standard in paragraph (a) of this subsection. For the purpose of this determination, the insurer with the largest share of the market shall be deemed to be insurer A.

(ii) There is a significant trend toward increased concentration when the aggregate market share of any grouping of the largest insurers in the market, from the two (2) largest to the eight (8) largest, has increased by seven percent (7%) or more of the market over a period of time extending from any base year five (5) to ten (10) years prior to the acquisition up to the time of the acquisition. Any acquisition or merger covered under subsection (2) of this section involving two (2) or more insurers competing in the same market is prima facie evidence of violation of the competitive standard in paragraph (a) of this subsection if:

1. There is a significant trend toward increased concentration in the market;
2. One (1) of the insurers involved is one of the insurers in a grouping of large insurers showing the requisite increase in the market share; and
3. Another involved insurer's market is two percent (2%) or more.

(iii) For the purposes of paragraph (b) of this subsection:

1. "Insurer" means any company or group of companies under common management, ownership or control;
2. "Market" means the relevant product and geographical markets. In determining the relevant product and geographical markets, the director shall give due consideration to, among other things, the definitions or guidelines, if any, promulgated by the national association of insurance commissioners and to information, if any, submitted by parties to the acquisition. In the absence of sufficient information to the contrary, the relevant product market is assumed to be the direct written insurance premium for a line of business, which line is that used in the annual statement required to be filed by insurers doing business in this state and the relevant geographical market is assumed to be this state;
3. The burden of showing prima facie evidence of violation of the competitive standard rests upon the director.

(iv) Even if an acquisition is not prima facie violative of the competitive standard under subsection (4) (b) (i) and (ii) of this section, the director may establish the requisite anticompetitive effect based upon other substantial evidence. Even if an acquisition is prima facie violative of the competitive standard under subsection (4) (b) (i) and (ii) of this section, a party may establish the absence of the requisite anticompetitive effect based upon other substantial evidence. Relevant factors in making a determination under this subsection include, but are not limited to, the following: market shares, volatility of ranking of market leaders, number of competitors, concentration, trend of concentration in the industry and ease of entry and exit into the market.

(c) An order may not be entered under subsection (5) (a) of this section if:

- (i) The acquisition will yield substantial economies of scale or economies in resource utilization that cannot be feasibly achieved in any other way, and the public benefits that would arise from such economies exceed the public benefits that would arise from not lessening competition; or
- (ii) The acquisition will substantially increase the availability of insurance, and the public benefits of the increase exceed the public benefits that would arise from not lessening competition.

(5) (a) If an acquisition violates the provisions of this section, the director may enter an order:

(i) Requiring an involved insurer to cease and desist from doing business in this state with respect to the line or lines of insurance involved in the violation; or

(ii) Denying the application of an acquired or acquiring insurer for a certificate of authority to do business in this state.

(b) Such an order shall not be entered unless:

(i) A hearing has been held in accordance with chapter 2, title 41, Idaho Code;

(ii) Notice of the hearing was issued prior to the end of the waiting period and not less than fourteen (14) days prior to the hearing; and

(iii) The hearing was concluded and the order issued no later than fifty-six (56) days after the date of the filing of the preacquisition notification with the director.

Every order shall be accompanied by a written decision of the director setting forth findings of fact and conclusions of law.

(c) An order entered under the provisions of this subsection shall not become final earlier than twenty-eight (28) days after it is issued, during which time the involved insurer may submit a plan to remedy the anticompetitive impact of the acquisition within a reasonable time. Based upon such plan or other information, the director shall specify the conditions, if any, under the time period during which the aspects of the acquisition causing a violation of the provisions of this section would be remedied and the order vacated or modified.

(d) An order pursuant to this section shall not apply if the acquisition is not consummated.

(e) Any person who violates a cease and desist order of the director issued pursuant to subsection (5) (a) of this section and while the order is in effect may, after notice and the opportunity for a hearing and upon order of the director, be subject at the discretion of the director to one (1) or more of the following:

(i) A monetary penalty of not more than ten thousand dollars (\$10,000) for every day of violation; and/or

(ii) Suspension or revocation of the person's certificate of authority in this state.

(f) Any insurer or other person who fails to make any filing required by this section, and who also fails to demonstrate a good faith effort to comply with any filing requirement, shall be subject to a fine of not more than fifty thousand dollars (\$50,000).

(6) Sections 41-3818(2) and (3) and 41-3820, Idaho Code, do not apply to acquisitions covered under subsection (2) of this section.

41-3809. REGISTRATION OF HOLDING COMPANY SYSTEM INSURERS. (1) Every insurer authorized to do business in this state and that is a member of an insurance holding company system shall register with the director, except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile, which are substantially similar to those contained in this section and in:

(a) Sections 41-3810(1), 41-3811 and 41-3812, Idaho Code; and

(b) The provisions of section 41-3810(2), Idaho Code, or a provision such as the following: Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions within fifteen (15) days after the end of the month in which it learns of each change or addition.

Any insurer that is subject to registration under this section shall register within fifteen (15) days after it becomes subject to registration, and annually thereafter for the year ending December 31 immediately preceding,

on the due date provided for filing of audited financial reports, or, if the insurer is not subject to filing of audited financial reports, on June 1, unless the director, for good cause shown, extends the time for registration, and then within the extended time. The director may require any insurer authorized to do business in the state that is a member of an insurance holding company system, and which is not subject to registration under this section, to furnish a copy of the registration statement, the summary specified in subsection (3) of this section or other information filed by the insurance company with the insurance regulatory authority of its domiciliary jurisdiction. Upon request of the insurer or of the insurance regulatory authority of another jurisdiction in which the insurer is authorized to transact insurance, the director at the insurer's expense shall furnish a copy of the registration statement or other information filed by a domestic insurer with the director pursuant to this chapter.

(2) Every insurer subject to registration under this chapter shall file the registration statement with the director on a form and in a manner prescribed by the director. The registration statement shall contain the following current information:

(a) The capital structure, general financial condition, ownership and management of the insurer and any person controlling the insurer;

(b) The identity and relationship of every member of the insurance holding company system;

(c) The following agreements in force and transactions currently outstanding or that have occurred during the last calendar year between the insurer and its affiliates:

(i) Loans, other investments or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(ii) Purchases, sales or exchange of assets;

(iii) Transactions not in the ordinary course of business;

(iv) Guarantees or undertakings for the benefit of an affiliate that result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(v) All management agreements, service contracts and all cost-sharing arrangements;

(vi) Reinsurance agreements;

(vii) Dividends and other distributions to shareholders; and

(viii) Consolidated tax allocation agreements.

(d) Any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system;

(e) If requested by the director, the insurer shall provide to the director financial statements of or within an insurance holding company system, including all affiliates. Financial statements may include, but are not limited to, annual audited financial statements filed with the U.S. securities and exchange commission (SEC) pursuant to the securities act of 1933, as amended, or the securities exchange act of 1934, as amended. An insurer required to file financial statements pursuant to this section may satisfy the request by providing the director with the most recently filed parent corporation financial statements that have been filed with the SEC;

(f) Other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the director;

(g) Certification that the insurer's board of directors is responsible for and oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented



and continue to maintain and monitor corporate governance and internal control procedures; and

(h) Any other information required by the director by statute or rule.

(3) All registration statements shall contain a summary outlining all items constituting changes from the prior registration statement.

(4) No information need be disclosed on the registration statement filed pursuant to subsection (2) of this section if the information is not material for the purposes of this section. Unless the director by rule or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, investments or guarantees involving one-half of one percent (.5%) or less of an insurer's admitted assets as of the December 31 of the year immediately preceding shall not be deemed material for purposes of this chapter.

(5) Subject to section 41-3810, Idaho Code, each registered insurer shall report to the director all dividends and other distributions to shareholders within fifteen (15) business days following the declaration thereof.

(6) Any person within an insurance holding company system subject to registration shall be required to provide complete and accurate information to an insurer, where the information is reasonably necessary to enable the insurer to comply with the provisions of this chapter.

(7) The director shall terminate the registration of any insurer that demonstrates that it no longer is a member of an insurance holding company system.

(8) The director may require or allow two (2) or more affiliated insurers subject to registration to file a consolidated registration statement.

(9) The director may allow any insurer that is authorized to do business in this state and that is part of an insurance holding company system, to register on behalf of any affiliated insurer that is required to register under subsection (1) of this section and to comply with all filing requirements under this chapter.

(10) The provisions of this section shall not apply to any insurer, information or transaction if and to the extent that the director by rule or order shall exempt the same from the provisions of this section. In considering whether to issue an exemption, the director may consider the following:

(a) The size of the insurer and all affiliates;

(b) The structure of ownership within the insurance holding company system;

(c) The nature and amounts of transactions within the insurance holding company system;

(d) The nature and complexity of the business of the insurer and affiliates; and

(e) Any other factors the director deems appropriate.

Prior to issuing an exemption, the director shall notify all other insurance regulators where the insurer or its affiliates hold a certificate of authority.

(11) Any person may file with the director a disclaimer of affiliation with any authorized insurer, or such a disclaimer may be filed by the insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between the person and the insurer as well as the basis for disclaiming the affiliation. A disclaimer of affiliation shall be deemed to have been granted unless the director, within thirty (30) days following receipt of a complete disclaimer, notifies the filing party that the disclaimer is disallowed. In the event of disallowance, the disclaiming party may request an administrative hearing pursuant to chapter 2, title 41, Idaho Code, which shall be granted. The disclaiming party shall be relieved of its duty to

register under this section if approval of the disclaimer has been granted by the director, or if the disclaimer is deemed to have been approved.

(12) The ultimate controlling person of every insurer subject to registration shall also file an annual enterprise risk report. The report shall, to the best of the ultimate controlling person's knowledge and belief, identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report shall be filed with the lead state director of the insurance holding company system as determined by the procedures within the financial analysis handbook adopted by the national association of insurance commissioners.

(13) The failure to file a registration statement or any summary of the registration statement or enterprise risk filing required in this section within the time specified for filing shall be a violation of the provisions of this section.

41-3810. STANDARDS AND MANAGEMENT OF AN INSURER WITHIN AN INSURANCE HOLDING COMPANY SYSTEM. (1) Transactions within an insurance holding company system to which an insurer subject to registration is a party shall be subject to the following standards:

- (a) The terms shall be fair and reasonable;
- (b) Agreements for cost-sharing services and management shall include such provisions as required by rule promulgated by the director;
- (c) Charges or fees for services performed shall be reasonable;
- (d) Expenses incurred and payment received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied;
- (e) The books, accounts and records of each party to all such transactions shall be so maintained as to clearly and accurately disclose the precise nature and details of the transactions, including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties; and
- (f) The insurer's surplus regarding policyholders following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to meet its financial needs.

(2) The following transactions involving a domestic insurer and any person in its insurance holding company system, including amendments or modifications of affiliate agreements previously filed pursuant to this section, that are subject to any materiality standards contained in paragraphs (a) through (g) of this subsection, may not be entered into unless the insurer has notified the director in writing of its intention to enter into the transaction at least thirty (30) days prior thereto, or such shorter period as the director may permit, and the director has not disapproved it within that period. The notice for amendments or modifications shall include the reasons for the change and the financial impact on the domestic insurer. Informal notice shall be reported to the director within thirty (30) days after the termination of a previously filed agreement, for determination of the type of filing required, if any.

- (a) Sales, purchases, exchanges, loans, extensions of credit, guarantees or investments, provided the transactions are equal to or exceed:
  - (i) With respect to non-life insurers, the lesser of three percent (3%) of the insurer's admitted assets or twenty-five percent (25%) of surplus regarding policyholders as of December 31 of the year immediately preceding;
  - (ii) With respect to life insurers, three percent (3%) of the insurer's admitted assets as of December 31 of the year immediately preceding;
- (b) Loans or extensions of credit to any person who is not an affiliate, where the insurer makes loans or extensions of credit with the agree-

ment or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurer making the loans or extensions of credit, provided the transactions are equal to or exceed:

- (i) With respect to non-life insurers, the lesser of three percent (3%) of the insurer's admitted assets or twenty-five percent (25%) of surplus regarding policyholders as of December 31 of the year immediately preceding;
  - (ii) With respect to life insurers, three percent (3%) of the insurer's admitted assets as of December 31 of the year immediately preceding;
- (c) Reinsurance agreements or modifications thereto, including:
- (i) All reinsurance pooling agreements;
  - (ii) Agreements in which the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or a change in the insurer's liabilities, in any of the next three (3) years, equals or exceeds five percent (5%) of the insurer's surplus regarding policyholders, as of December 31 of the year immediately preceding, including those agreements which may require as consideration the transfer of assets from an insurer to a non-affiliate, if an agreement or understanding exists between the insurer and the nonaffiliate that any portion of the assets will be transferred to one (1) or more affiliates of the insurer;
- (d) All management agreements, service contracts, tax allocation agreements, guarantees and all cost-sharing arrangements;
- (e) Guarantees when made by a domestic insurer, provided however, that a guarantee that is quantifiable as to amount is not subject to the notice requirement of this section, unless it exceeds the lesser of one-half of one percent (.5%) of the insurer's admitted assets or ten percent (10%) of surplus regarding policyholders as of December 31 of the year immediately preceding. Further, all guarantees that are not quantifiable as to amount are subject to the notice requirements of this section;
- (f) Direct or indirect acquisitions or investments in a person that controls the insurer or in an affiliate of the insurer in an amount that, together with the insurer's present holdings in such investments, exceeds two and one-half percent (2.5%) of the insurer's surplus to policyholders. Direct or indirect acquisitions or investments in subsidiaries acquired pursuant to section 41-3803, Idaho Code, or authorized under any other section of this chapter, or in nonsubsidiary insurance affiliates that are subject to the provisions of this chapter, are exempt from this requirement; and
- (g) Any material transactions, specified by statute or rule, that the director determines may adversely affect the interests of the insurer's policyholders.

Nothing in this section shall be deemed to authorize or permit any transactions that, in the case of an insurer not a member of the same insurance holding company system, would be otherwise contrary to law.

(3) A domestic insurer may not enter into transactions that are part of a plan or series of like transactions with persons within the insurance holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the director determines that separate transactions were entered into over any twelve (12) month period for that purpose, the director may exercise his authority pursuant to section 41-3819, Idaho Code.

(4) The director, in reviewing transactions pursuant to subsection (2) of this section, shall consider whether the transactions comply with the

standards set forth in subsection (1) of this section and whether they may adversely affect the interests of policyholders.

(5) The director shall be notified within thirty (30) days of any investment of the domestic insurer in any one (1) corporation, if the total investment in the corporation by the insurance holding company system exceeds ten percent (10%) of the corporation's voting securities.

41-3811. ADEQUACY OF SURPLUS. For purposes of this chapter, in determining whether an insurer's surplus regarding policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to meet its financial needs, the following factors, among others, shall be considered:

(1) The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria;

(2) The extent to which the insurer's business is diversified among several lines of insurance;

(3) The number and size of risks insured in each line of business;

(4) The extent of the geographical dispersion of the insurer's insured risks;

(5) The nature and extent of the insurer's reinsurance program;

(6) The quality, diversification and liquidity of the insurer's investment portfolio;

(7) The recent past and projected future trend in the size of the insurer's investment portfolio;

(8) The surplus regarding policyholders maintained by other comparable insurers;

(9) The adequacy of the insurer's reserves;

(10) The quality and liquidity of investments in affiliates; the director may treat any investment in an affiliate as a disallowed asset for purposes of determining the adequacy of surplus regarding policyholders whenever in the judgment of the director the investment so warrants; and

(11) The quality of the insurer's earnings and the extent to which the reported earnings include extraordinary items.

41-3812. DIVIDENDS AND OTHER DISTRIBUTIONS. (1) No domestic insurer shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until thirty (30) days after the director has received notice of the declaration thereof and has not within that period disapproved the payment, or until the director has approved the payment within the thirty (30) day period. For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve (12) months exceeds the lesser of:

(a) Ten percent (10%) of the insurer's surplus regarding policyholders as of December 31 of the year immediately preceding; or

(b) The net gain from operations of the insurer, if the insurer is a life insurer, or the net income, if the insurer is not a life insurer, not including realized capital gains, for the twelve (12) month period ending December 31 of the year immediately preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

In determining whether a dividend or distribution is extraordinary, an insurer other than a life insurer may carry forward net income from the previous two (2) calendar years that has not already been paid out as dividends. This carryforward shall be computed by taking the net income from the second and third preceding calendar years, not including realized capital gains, less dividends paid in the second and immediate preceding calendar years. Notwithstanding any other provision of law, an insurer may declare an extra-

ordinary dividend or distribution that is conditional upon the director's approval, and the declaration shall confer no rights upon shareholders until the director has approved the payment of the dividend or distribution or until the director has not disapproved payment within the thirty (30) day period referred to in this subsection.

(2) A domestic insurer that is a member of a holding company system shall notify the director in writing of any nonextraordinary dividends to be paid or other distributions to be made to shareholders within five (5) business days following the declaration of the dividend or distribution, and shall notify the director in writing at least ten (10) days, commencing from the date of receipt by the director, prior to the payment of any dividends or the making of any other distribution.

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 flood 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.

41-3814. EXAMINATION. (1) Power of director. Subject to the limitation contained in this section and in addition to the authority the director has under chapter 2, title 41, Idaho Code, relating to the examination of insurers, the director shall have the power to examine any insurer registered under section 41-3809, Idaho Code, and its affiliates to ascertain the financial condition of the insurer, including the enterprise risk to the insurer by the ultimate controlling party, or by any entity or combination of entities within the insurance holding company system, or by the insurance holding company system on a consolidated basis.

(2) The director may order any insurer registered under section 41-3809, Idaho Code, to produce such records, books or other information in the possession or control of the insurer or its affiliates as are reasonably necessary to determine compliance with this chapter. For such purpose, the director may order any insurer registered under section 41-3809, Idaho Code, to produce information not in the possession of the insurer if the insurer can obtain access to such information pursuant to contractual relationships, statutory obligations or other method. In the event the insurer cannot obtain the information requested by the director, the insurer shall provide the director with a detailed explanation of the reason that the insurer cannot obtain the information and the identity of the holder of information. Whenever it appears to the director that the detailed explanation is without merit, the director may require, after notice and the opportunity for a hearing, that the insurer pay a penalty in the amount and in the manner provided in section 41-3819(1), Idaho Code, and may suspend or revoke the insurer's license.

(3) The director may retain at the registered insurer's expense such attorneys, actuaries, accountants and other experts not otherwise a part of the director's staff as shall be reasonably necessary to assist in the conduct of the examination referenced in subsection (1) of this section. Persons so retained shall be under the direction and control of the director for the purposes stated herein and shall act in a purely advisory capacity.

(4) Each registered insurer producing for examination records, books and papers pursuant to subsection (1) of this section shall be liable for and shall pay the expense of examination in accordance with the provisions of section 41-228, Idaho Code, and applicable rules promulgated by the director.

(5) In the event the insurer fails to comply with an order issued by the director, the director shall have the power to examine the insurer's affiliates to obtain the information. The director shall also have the power to issue subpoenas, to administer oaths and to examine under oath any person for purposes of determining compliance with the provisions of this section. Upon the failure or refusal of any person to obey a subpoena issued by the director, the director may petition a court of competent jurisdiction and, upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order shall be punishable as contempt of court. Every person shall be obligated to attend as a witness at the place specified in the subpoena, when subpoenaed, anywhere within the state. He shall be entitled to the same fees and mileage, if claimed, as a witness in the district court, which fees, mileage and actual expense, if any, necessarily incurred in securing the attendance of witnesses, and their testimony, shall be itemized and charged against and be paid by the company being examined.

41-3815. SUPERVISORY COLLEGES. (1) With respect to any insurer registered under section 41-3809, Idaho Code, and in accordance with subsection (3) of this section, the director is authorized to participate in a supervisory college for any domestic insurer that is part of an insurance holding company system with international operations in order to determine compliance by the insurer with this chapter. The powers of the director with re-

spect to supervisory colleges include, but are not limited to, the following:

- (a) Initiating the establishment of a supervisory college;
- (b) Clarifying the membership and participation of other supervisors in the supervisory college;
- (c) Clarifying the functions of the supervisory college and the role of other regulators, including the establishment of a group-wide supervisor;
- (d) Coordinating the ongoing activities of the supervisory college, including planning meetings, supervisory activities and processes for information sharing; and
- (e) Establishing a crisis management plan.

(2) Each registered insurer subject to this section shall be liable for and shall pay the reasonable expenses of the director's participation in a supervisory college in accordance with subsection (3) of this section, including reasonable travel expenses. For purposes of this section, a supervisory college may be convened as either a temporary or permanent forum for communication and cooperation between the regulators charged with the supervision of the insurer or its affiliates and the director may establish a regular assessment to the insurer for the payment of these expenses.

(3) In order to assess the business strategy, financial position, legal and regulatory position, risk exposure, risk management and governance processes, and as part of the examination of individual insurers in accordance with section 41-3813, Idaho Code, the director may participate in a supervisory college with other regulators charged with supervision of the insurer or its affiliates, including other state, federal and international regulatory agencies. The director may enter into agreements in accordance with section 41-3816(3), Idaho Code, providing the basis for cooperation among the director and the other regulatory agencies, and the activities of the supervisory college. Nothing in this section shall delegate to the supervisory college the authority of the director to regulate or supervise the insurer or its affiliates within its jurisdiction.

41-3816. CONFIDENTIAL TREATMENT. (1) Documents, materials or other information in the possession or control of the department that are obtained by or disclosed to the director or any other person in the course of an examination or investigation made pursuant to section 41-3814, Idaho Code, and all information reported pursuant to sections 41-3804(2), 41-3809 and 41-3810, Idaho Code, shall be confidential by law and privileged, shall be exempt from public disclosure, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. However, the director is authorized to use such documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the director's official duties. The director shall not otherwise make the documents, materials or other information public without the prior written consent of the insurer to which it pertains, unless the director, after giving the insurer and its affiliates who would be affected notice and opportunity to be heard, determines that the interest of policyholders, shareholders or the public will be served by the publication, in which event the director may publish all or any part in such manner as may be deemed appropriate.

(2) Neither the director nor any person who receives documents, materials or other information while acting under the authority of the director or with whom such documents, materials or other information is shared pursuant to this chapter, shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to subsection (1) of this section.

(3) In order to assist in the performance of the director's duties under title 41, Idaho Code, the director:

(a) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to subsection (1) of this section, with other state, federal and international regulatory agencies, with the national association of insurance commissioners and its affiliates and subsidiaries, and with state, federal and international law enforcement authorities, including members of any supervisory college described in section 41-3815, Idaho Code, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material or other information and has verified in writing the legal authority to maintain confidentiality.

(b) Notwithstanding the provisions of subsection (3)(a) of this section, the director may only share confidential and privileged documents, materials or information reported pursuant to section 41-3809(12), Idaho Code, with commissioners of states having statutes or regulations substantially similar to subsection (1) of this section and who have agreed in writing not to disclose such information.

(c) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information from the national association of insurance commissioners and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

(d) Shall enter into written agreements with the national association of insurance commissioners governing sharing and use of information provided pursuant to the provisions of this chapter consistent with this subsection, which agreements shall:

(i) Specify procedures and protocols regarding the confidentiality and security of information shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to this chapter, including procedures and protocols for sharing by the national association of insurance commissioners with other state, federal or international regulators;

(ii) Specify that ownership of information shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to this chapter remains with the director, and the national association of insurance commissioners' use of the information is subject to the direction of the director;

(iii) Require prompt notice to be given to an insurer whose confidential information is in the possession of the national association of insurance commissioners pursuant to this chapter that disclosure of such confidential information has been requested or subpoenaed or otherwise sought; and

(iv) Require the national association of insurance commissioners and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial, administrative or similar action in which the national association of insurance commissioners and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the national association of insurance commissioners and the insurer's affiliates and subsidiaries pursuant to this chapter.

(4) The sharing of information by the director pursuant to this chapter shall not constitute a delegation of regulatory authority or rulemaking, and the director is solely responsible for the administration, execution and enforcement of the provisions of this chapter.



(5) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the director under the provisions of this section or as a result of sharing as authorized in subsection (3) of this section.

(6) Documents, materials or other information in the possession or control of the national association of insurance commissioners pursuant to this chapter shall be confidential and privileged, shall not be a public record, shall not be subject to public disclosure, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action.

41-3817. RULES. The director may promulgate rules and issue orders as shall be necessary to carry out the provisions of this chapter.

41-3818. INJUNCTIONS, PROHIBITIONS AGAINST VOTING SECURITIES, SEQUESTRATION OF VOTING SECURITIES. (1) Whenever it appears to the director that any insurer or any director, officer, employee or agent thereof has committed or is about to commit a violation of the provisions of this chapter or of any rule or order issued by the director hereunder, the director may apply to the district court, fourth judicial district for Ada county, for an order enjoining the insurer or director, officer, employee or agent thereof from violating or continuing to violate the provisions of this chapter or any rule or order thereunder, and for such other equitable relief as the nature of the case and the interests of the insurer's policyholders, creditors and shareholders or the public may require.

(2) No security that is the subject of any agreement or arrangement regarding acquisition, or that is acquired or to be acquired, in contravention of the provisions of this chapter or of any rule or order issued by the director hereunder, may be voted at any shareholders' meeting, or may be counted for quorum purposes, and any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though the securities were not issued and outstanding; however, no action taken at any such meeting shall be invalidated by the voting of such securities, unless the action would materially affect control of the insurer or unless the courts of this state so order. If an insurer or the director has reason to believe that any security of the insurer has been or is about to be acquired in contravention of the provisions of this chapter or of any rule or order issued by the director hereunder, the insurer or the director may apply to the fourth judicial district court for Ada county to enjoin any offer, request, invitation, agreement or acquisition made in contravention of section 41-3804, Idaho Code, or any rule or order issued by the director to enjoin the voting of any security so acquired, to void any vote of the security already cast at any meeting of shareholders, and for such other equitable relief as the nature of the case and the interest of the insurer's policyholders, creditors and shareholders or the public may require.

(3) In any case where a person has acquired or is proposing to acquire any voting securities in violation of the provisions of this chapter or any rule or order issued by the director hereunder, the fourth judicial district court for Ada county, on such notice as the court deems appropriate, upon the application of the insurer or the director, shall seize or sequester any voting securities of the insurer owned directly or indirectly by the person, and issue such order as may be appropriate to effectuate the provisions of this chapter.

(4) Notwithstanding any other provisions of law, for the purposes of this chapter, the situs of the ownership of the securities of domestic insurers shall be deemed to be in this state.

41-3819. SANCTIONS. (1) Any insurer failing, without just cause, to file any registration statement as required in this chapter shall be

required, after notice and the opportunity for a hearing, to pay a penalty of two hundred dollars (\$200) for each day of delay, to be recovered by the director, and the penalty so received shall be distributed to the general fund of the state of Idaho. The maximum penalty under this section is ten thousand dollars (\$10,000). The director may reduce the penalty if the insurer demonstrates to the director that the imposition of the penalty would constitute a financial hardship to the insurer.

(2) Every director or officer of an insurance holding company system who knowingly violates, participates in or assents to, or who knowingly permits any of the officers or agents of the insurer to engage in transactions or make investments that have not been properly reported or submitted pursuant to section 41-3809(1), 41-3810(2) or 41-3812, Idaho Code, or who violates the provisions of this chapter shall pay, in their individual capacity, an administrative penalty of not more than five thousand dollars (\$5,000) per violation, after notice and the opportunity for a hearing before the director. In determining the amount of the administrative penalty, the director shall take into account the appropriateness of the penalty with respect to the gravity of the violation, the history of any previous violations and such other matters as the interests of justice may require.

(3) Whenever it appears to the director that any insurer subject to this chapter or any director, officer, employee or agent thereof has engaged in any transaction or entered into a contract that is subject to section 41-3810 or 41-3812, Idaho Code, and that would not have been approved had approval been requested, the director may order the insurer to cease and desist immediately from any further activity under that transaction or contract. After notice and the opportunity for a hearing, the director may also order the insurer to void any contracts and restore the status quo if such action is in the best interest of the policyholders, creditors or the public.

(4) Whenever it appears to the director that any insurer or any director, officer, employee or agent thereof has committed a willful violation of this chapter, the director may seek criminal proceedings to be instituted by referring the matter to the attorney general or the county prosecutor in the county in which the principal office of the insurer is located, or if the insurer has no office in this state, then in Ada county, Idaho, against the insurer or the responsible director, officer, employee or agent thereof. Any insurer who willfully violates the provisions of this chapter may be fined not more than five thousand dollars (\$5,000). Any individual who willfully violates the provisions of this chapter shall be guilty of a felony and may be imprisoned for not more than two (2) years or fined in his individual capacity not more than five thousand dollars (\$5,000), or both.

(5) Any officer, director or employee of an insurance holding company system who willfully and knowingly subscribes to or makes or causes to be made any false statements or false reports or false filings with the intent to deceive the director in the performance of his duties under the provisions of this chapter, upon conviction shall be imprisoned for not more than three (3) years or fined five thousand dollars (\$5,000), or both. Any fines imposed shall be paid by the officer, director or employee in his individual capacity.

(6) Whenever it appears to the director that any person has committed a violation of the provisions of section 41-3804, Idaho Code, and which prevents the director from fully understanding the enterprise risk to the insurer by affiliates or by the insurance holding company system, such violation may serve as an independent basis for the director's disapproval of dividends or distributions and for placing the insurer under an order of supervision in accordance with chapter 33, title 41, Idaho Code.

41-3820. RECEIVERSHIP. Whenever it appears to the director that any person has committed a violation of the provisions of this chapter that so impairs the financial condition of a domestic insurer as to threaten insol-

gency or make its further transaction of business hazardous to its policyholders, creditors, shareholders or the public, the director may proceed as provided in chapter 33, title 41, Idaho Code, to take possession of the property of the domestic insurer and to conduct its business in the capacity of a receiver.

41-3821. RECOVERY. (1) If an order for liquidation or rehabilitation of a domestic insurer has been entered, the receiver appointed under the order shall be authorized to recover on behalf of the insurer:

(a) From any parent corporation or holding company or person or affiliate who otherwise controlled the insurer, the amount of distributions, other than distributions of shares of the same class of stock, paid by the insurer on its capital stock; or

(b) Any payment in the form of a bonus, termination settlement or extraordinary lump sum salary adjustment made by the insurer or its subsidiary to a director, officer or employee, where the distribution or payment pursuant to this subsection is made at any time during the one (1) year period preceding the petition for liquidation, conservation or rehabilitation, as the case may be, subject to the limitations of subsections (2), (3) and (4) of this section.

(2) No distribution shall be recoverable if the parent or affiliate of such domestic insurer shows that when paid the distribution was lawful and reasonable, and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(3) Any person who was a parent corporation or holding company or a person who otherwise controlled the insurer or affiliate at the time the distributions were paid shall be liable up to the amount of distributions or payments under subsection (1) of this section, that the person received. Any person who otherwise controlled the insurer at the time the distributions were declared shall be liable up to the amount of distributions that would have been received if they had been paid immediately. If two (2) or more persons are liable with respect to the same distributions, they shall be jointly and severally liable.

(4) The maximum amount recoverable pursuant to this section shall be the amount needed in excess of all other available assets of the impaired or insolvent insurer to pay the contractual obligations of the impaired or insolvent insurer and to reimburse any guaranty funds.

(5) To the extent that any person liable under subsection (3) of this section is insolvent or otherwise fails to pay claims due pursuant to subsection (3) of this section, its parent corporation or holding company or person who otherwise controlled it at the time the distribution was paid shall be jointly and severally liable for any resulting deficiency in the amount recovered from the parent corporation or holding company or person who otherwise controlled it.

41-3822. REVOCATION, SUSPENSION OR NONRENEWAL OF INSURER'S LICENSE. Whenever it appears to the director that any person has committed a violation of the provisions of this chapter that makes the continued operation of an insurer contrary to the interests of policyholders or the public, the director may, after giving notice and the opportunity for a hearing, suspend, revoke or refuse to renew the insurer's license or certificate of authority to do business in this state for such period as the director finds is required for the protection of policyholders or the public. Any such determination shall be accompanied by specific findings of fact and conclusions of law.

41-3823. JUDICIAL REVIEW -- MANDAMUS. (1) Any person aggrieved by any act, determination, rule or order or any other action of the director pur-

suant to this chapter may appeal to the fourth judicial district court for Ada county, Idaho. The court shall conduct its review in accordance with the provisions of chapter 52, title 67, Idaho Code, or other applicable provisions of law.

(2) The filing of an appeal pursuant to this section shall stay the application of any rule, order or other action of the director to the party pursuing such appeal, unless the court, after providing the party with notice and the opportunity for a hearing, determines that a stay would be detrimental to the interest of policyholders, shareholders, creditors or the public.

(3) Any person aggrieved by any failure of the director to act or make a determination required by this chapter may petition the fourth judicial district court for Ada county for a writ in the nature of a mandamus or a peremptory mandamus directing the director to act or make a determination.

#### 41-3824. MUTUAL INSURANCE HOLDING COMPANIES.

(1) (a) A domestic mutual insurer, upon approval of the director, may reorganize by forming an insurance holding company system, which shall be designated as "a mutual insurance holding company," based upon a mutual insurance company plan and continuing the corporate existence of the reorganizing insurer as a stock insurer. The director, after a public hearing as provided in section 41-3806, Idaho Code, if satisfied that the interests of the policyholders are properly protected and that the plan of reorganization is fair and equitable to the policyholders, may approve the proposed plan of reorganization and may require as a condition of approval such modifications of the proposed plan of reorganization as the director finds necessary for the protection of the policyholders' interests. The director may retain consultants for this purpose as provided in section 41-3806(5), Idaho Code. A reorganization pursuant to this section is subject to the requirements of sections 41-3804 and 41-3805, Idaho Code. The director shall retain jurisdiction over a mutual insurance holding company organized pursuant to this section to assure that policyholder interests are protected.

(b) All of the initial shares of the capital stock of the reorganized insurer shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurer shall become membership interests in the mutual insurance holding company. Policyholders of the reorganized insurer shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of the reorganized insurer.

(2) (a) A domestic mutual insurer, upon the approval of the director, may reorganize by merging its policyholders' membership interests into a mutual insurance holding company formed pursuant to subsection (1) of this section and continuing the corporate existence of the reorganizing insurer as a stock insurer subsidiary of the mutual insurance holding company. The director, after a public hearing as provided in section 41-3806, Idaho Code, if satisfied that the interests of the policyholders are properly protected and that the merger is fair and equitable to the policyholders, may approve the proposed merger and may require as a condition of approval such modifications of the proposed merger as the director finds necessary for the protection of the policyholders' interests. For this purpose, the director may retain consultants as provided in section 41-3806(5), Idaho Code. A merger pursuant to this subsection is subject to sections 41-3804 and 41-3805, Idaho Code. The director shall retain jurisdiction over the mutual insurance holding company organized pursuant to this section to assure that policyholder interests are protected.

(b) All of the initial shares of the capital stock of the reorganized insurer shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company shall become membership interests in the mutual insurance holding company. Policyholders of the reorganized insurer shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of the reorganized insurer. A merger of policyholders' membership interests in a mutual insurer into a mutual insurance holding company shall be deemed to be a merger of insurance companies pursuant to section 41-2857, Idaho Code, and is subject to the requirements of section 41-2857, Idaho Code.

(c) A foreign mutual insurer that is a domestic insurer organized under chapter 3, title 41, Idaho Code, may reorganize upon the approval of the director and in compliance with the requirements of any law or rule applicable to the foreign mutual insurer by merging its policyholders' membership interests into a mutual insurance holding company formed pursuant to subsection (1) of this section and continuing the corporate existence of the reorganizing foreign mutual insurer as a foreign stock insurer subsidiary of the mutual insurance holding company. The director, after a public hearing as provided in section 41-3806, Idaho Code, may approve the proposed merger. The director may retain consultants as provided in section 41-3806(5), Idaho Code. A merger pursuant to this paragraph is subject to the requirements of sections 41-3804 and 41-3805, Idaho Code. The reorganizing foreign mutual insurer may remain a foreign company or foreign corporation after the merger and may be admitted to do business in this state, upon approval by the director. A foreign mutual insurer that is a party to the merger may at the same time redomesticate in this state by complying with the applicable requirements of this state and its state of domicile. The provisions of subsection (2) (b) of this section shall apply to a merger authorized under this paragraph.

(3) A mutual insurance holding company resulting from the reorganization of a domestic mutual insurer organized under chapter 1, title 30, Idaho Code, shall be incorporated pursuant to chapter 1, title 30, Idaho Code. This requirement shall supersede any conflicting provisions of chapter 1, title 30, Idaho Code. The articles of incorporation and any amendments to such articles of the mutual insurance holding company shall be subject to approval of the director in the same manner as those of an insurance company.

(4) A mutual insurance holding company is deemed to be an insurer subject to chapter 33, title 41, Idaho Code, and shall automatically be a party to any proceeding under chapter 33, title 41, Idaho Code, involving an insurer that, as a result of a reorganization pursuant to subsection (1) or (2) of this section, is a subsidiary of the mutual insurance holding company. In any proceeding under chapter 33, title 41, Idaho Code, involving the reorganized insurer, the assets of the mutual insurance holding company are deemed to be assets of the estate of the reorganized insurer for purposes of satisfying the claims of the reorganized insurer's policyholders. A mutual insurance holding company shall not be dissolved or liquidated without the prior approval of the director or as ordered by the district court pursuant to chapter 33, title 41, Idaho Code.

(5) (a) Section 41-2855, Idaho Code, is not applicable to a reorganization or merger pursuant to this section.

(b) Section 41-2855, Idaho Code, is applicable to demutualization of a mutual insurance holding company that resulted from the reorganization of a domestic mutual insurer organized pursuant to chapter 3, title 41, Idaho Code, as if the domestic mutual insurer were a mutual life insurer.

(6) A membership interest in a domestic mutual insurance holding company shall not constitute a security as defined in section 30-14-102(28), Idaho Code.

(7) The majority of the voting shares of the capital stock of the reorganized insurer, which is required by this section to be at all times owned by a mutual insurance holding company, shall not be conveyed, transferred, assigned, pledged, subject to a security interest or lien, encumbered or otherwise hypothecated or alienated by the mutual insurance holding company or intermediate holding company. Any conveyance, transfer, assignment, pledge, security interest, lien, encumbrance, hypothecation or alienation of, in or on the majority of the voting shares of the reorganized insurer that is required by this section to be at all times owned by a mutual insurance holding company, is in violation of the provisions of this section and shall be void in inverse chronological order of the date of such conveyance, transfer, assignment, pledge, security interest, lien, encumbrance or hypothecation or alienation, as to the shares necessary to constitute a majority of such voting shares. The majority of the voting shares of the capital stock of the reorganized insurer that is required by this section to be at all times owned by a mutual insurance holding company shall not be subject to execution and levy as provided in title 11, Idaho Code. The shares of the capital stock of the surviving or new company resulting from a merger or consolidation of two (2) or more reorganized insurers or two (2) or more intermediate holding companies that were subsidiaries of the same mutual insurance holding company are subject to the same requirements, restrictions and limitations as provided in this section to which the shares of the merging or consolidating reorganized insurers or intermediate holding companies were subject as provided in this section prior to the merger or consolidation.

(a) As used in this section, "majority of the voting shares of the capital stock of the reorganized insurer" means shares of the capital stock of the reorganized insurer that carry the right to cast a majority of the votes entitled to be cast by all of the outstanding shares of the capital stock of the reorganized insurer for the election of directors and on all other matters submitted to a vote of the shareholders of the reorganized insurer. The ownership of a majority of the voting shares of the capital stock of the reorganized insurer that is required pursuant to this section to be at all times owned by a parent mutual insurance holding company includes indirect ownership through one (1) or more intermediate holding companies in a corporate structure approved by the director. However, indirect ownership through one (1) or more intermediate holding companies shall not result in the mutual insurance holding company owning less than the equivalent of a majority of the voting shares of the capital stock of the reorganized insurer. The director shall have jurisdiction over an intermediate holding company as if it were a mutual insurance holding company.

(b) As used in this section, "intermediate holding company" means a holding company that is a subsidiary of a mutual insurance holding company and that either directly or through a subsidiary intermediate holding company has one (1) or more subsidiary-reorganized insurers of which a majority of the voting shares of the capital stock would otherwise have been required pursuant to this section to be at all times owned by the mutual insurance holding company.

(8) It is the intent of the legislature that the formation of a mutual insurance holding company shall not increase the Idaho tax burden of the mutual insurance holding company system and that a stock insurance subsidiary shall continue to be subject to Idaho insurance premium taxation in lieu of all other taxes except real property taxes as provided in section 41-405, Idaho Code. Subject to approval by the director as required under Idaho law, a stock insurance subsidiary may issue dividends or distributions to the mu-

tual insurance holding company or any intermediate holding company and such dividends or distributions shall be excluded from the Idaho taxable income of the recipients; provided however, that such exclusion shall not apply if, in the year preceding the year in which the dividends or distributions were made, the subsidiary insurer's liability for Idaho premium tax was less than the amount of Idaho income tax, computed after allowance for income tax credits, for which the insurer would have been liable in such year had the insurer been subject to Idaho income taxation rather than premium taxation.

41-3825. SEVERABILITY. The provisions of this chapter are hereby declared to be severable and if any provision of this chapter 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 chapter.

SECTION 3. That Section 41-706, Idaho Code, be, and the same is hereby amended to read as follows:

41-706. DIVERSIFICATION OF INVESTMENTS. An insurer shall invest in or hold as assets categories of investments within applicable limits as follows only:

(1) One (1) person. An insurer shall not, except with the consent of the director, have at any one (1) time any combination of investments in or loans upon the security of the obligations, property, or securities of any one (1) person, institution, corporation, or municipal corporation, aggregating an amount exceeding ten ~~per cent~~ percent (10%) of the insurer's assets. This restriction shall not apply as to investments or deposits fully insured by the ~~F~~federal ~~D~~deposit ~~I~~insurance ~~C~~corporation or to general obligations of the United States of America or of any state or include policy or annuity contract loans made under section 41-718, Idaho Code, or to assets subject to section 41-715 or ~~41-3801B~~ 41-3803, Idaho Code, or to any one (1) domestic reciprocal insurer which exclusively insures members who are political subdivisions, as defined by section 6-902 2., Idaho Code, provided that all such investments comply with the public depository laws.

(2) Voting stock. An insurer shall not invest in or hold at any one (1) time more than ten ~~per cent~~ percent (10%) of the outstanding voting stock of any corporation, except with the consent of the director given with respect to voting rights of preference stock during default of dividends. This provision does not apply as to stock of subsidiaries of the insurer or a companion company or companies under substantially the same management at the time of purchase, as referred to in section 41-715 or ~~41-3801B~~ 41-3803, Idaho Code.

(3) Minimum capital. An insurer (other than title insurer) shall invest and maintain invested funds not less in amount than the minimum paid-in capital stock required under this code of a domestic stock insurer transacting like kinds of insurance, only in cash and the securities provided for under the following sections of this chapter: section 41-707, Idaho Code, (public obligations), and section 41-721, Idaho Code, (real estate mortgages and contracts).

(4) Life insurance reserves. A life insurer shall also invest and keep invested its funds in an amount not less than the reserves under its life insurance policies and annuity contracts in force, as prescribed by section 41-612, Idaho Code, in cash and/or the securities or investments allowed under this chapter, other than in common stocks, insurance stocks and stocks of subsidiaries of the insurer.

(5) Other specific limits. Limits as to investments in the category of real estate shall be as provided in section 41-728, Idaho Code; and other specific limits shall apply as stated in the sections dealing with other respective kinds of investments.

SECTION 4. That Section 41-714, Idaho Code, be, and the same is hereby amended to read as follows:

41-714. COMMON STOCKS. After satisfying the requirements of section 41-706(3) and (4), Idaho Code, (investment of capital and life reserves), an insurer may invest funds in an aggregate amount not in excess of fifteen percent (15%) of its assets in common shares of stock of any solvent institution existing under the laws of the United States or of any state, district or territory thereof, or of the government of Canada or any province thereof, that qualify as a sound investment, in addition to the shares of a substantially owned or wholly owned subsidiary corporation.

For the purpose of determining the investment limitation imposed by this section, the insurer shall value securities subject to the provisions of this section at the cost of the security or at the market value of the security, whichever is lower. However, investments in the shares of subsidiaries or companion insurance companies shall be governed by sections 41-715 and ~~41-3801B~~ 41-3803, Idaho Code.

The limitations as to investment in common stocks as provided herein shall not apply to nor limit the right of investments in investment trust securities as provided for in section 41-716, Idaho Code.

SECTION 5. That Section 41-715, Idaho Code, be, and the same is hereby amended to read as follows:

41-715. INSURANCE STOCKS. (1) An insurer may invest in subsidiary and/or companion insurance companies not to exceed ~~fifteen per cent~~ percent (15%) of assets. For the purpose of calculating this ~~fifteen per cent~~ percent (15%) limitation, all investments made under this section and section 41-3801B 41-3803, Idaho Code, ~~and section 41-715, Idaho Code,~~ must be valued at market value of the security if actively traded, or at cost if not actively traded.

(2) The limitations on investments in insurance stocks set forth in this section shall not apply to stocks acquired under a plan for merger of the insurers which has been approved by the director or as to shares received as stock dividends upon shares already owned.

(3) Shares acquired and held under this section shall not, for the purposes of the limitations provided under section 41-714, Idaho Code, be included among other common stocks held by the insurer.

SECTION 6. That Section 41-731, Idaho Code, be, and the same is hereby amended to read as follows:

41-731. PROHIBITED INVESTMENTS AND INVESTMENT UNDERWRITING. (1) In addition to investments excluded under other provisions of this code, an insurer shall not directly or indirectly invest in or loan its funds upon the security of:

(a) Issued shares of its own capital stock, except for the purpose of mutualization under section 41-2854, Idaho Code, or in connection with a plan approved by the director for purchase of such shares by the insurer's officers, employees, or agents, or for other reasonable purposes under a plan filed with and approved by the director. No such stock shall, however, constitute an asset of the insurer in any determination of its financial condition.

(b) Except with the director's consent, any security issued by any corporation or enterprise the controlling interest of which is, or will after such acquisition by the insurer be, held directly or indirectly by the insurer or any combination of the insurer and the insurer's directors, officers, parent corporation, subsidiaries, controlling stockholders, and the spouses and children of any of the foregoing individu-



als. Investments in subsidiaries under sections 41-706(2), 41-715 and 41-3801B 41-3803, Idaho Code, shall not be subject to this provision.

(c) Any note or other evidence of indebtedness of any director, officer, or controlling stockholder of the insurer, or the spouse or child of any of the foregoing individuals, except as to policy loans authorized under section 41-718, Idaho Code.

(d) Any investment or security which is found by the director to be designed to evade any prohibition of this chapter.

(2) No insurer shall underwrite or participate in the underwriting of an offering of securities or property by any other person.

SECTION 7. That Section 41-733, Idaho Code, be, and the same is hereby amended to read as follows:

41-733. SUBSIDIARY INVESTMENTS. An insurer may invest in subsidiaries in accordance with section 41-3801B 41-3803, Idaho Code.

SECTION 8. That Section 41-901, Idaho Code, be, and the same is hereby amended to read as follows:

41-901. DEFINITIONS. For the purposes of this chapter:

(1) "Administrator" or "third party administrator" or "TPA" means any person who directly or indirectly underwrites, collects charges or premiums from or adjusts or settles claims on residents of this state in connection with life, annuity or health insurance coverage offered or provided by an insurer, except any of the following:

(a) An employer, or a wholly owned direct or indirect subsidiary of an employer, on behalf of its employees or the employees of one (1) or more subsidiaries or affiliated corporations of such employer.

(b) A union on behalf of its members.

(c) An insurance company that is either authorized to transact insurance in this state or acting as an insurer with respect to a policy lawfully issued and delivered by such company in and pursuant to the laws of a state in which the insurer was authorized to transact an insurance business, or a hospital, medical, dental or optometric service corporation or a health care service organization, including their sales representatives, possessing a valid certificate of authority in this state when engaged in the performance of their duties.

(d) An insurance producer licensed to sell life, annuities or health coverage in this state whose activities are limited exclusively to the sale, solicitation and negotiation of insurance.

(e) A creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors.

(f) A trust, its trustees, agents and employees acting pursuant to such trust established in conformity with 29 U.S.C. 186.

(g) A trust exempt from taxation under section 501(a) of the Internal Revenue Code, its trustees and employees acting pursuant to such trust or a custodian and the custodian's agents or employees acting pursuant to a custodian account that meets the requirements of section 401(f) of the Internal Revenue Code.

(h) A credit union or a financial institution that is subject to supervision or examination by federal or state banking authorities, or a mortgage lender, to the extent they collect and remit premiums to licensed insurance producers or to limited lines producers or authorized insurers in connection with loan payments.

(i) A credit card issuing company that advances for and collects premiums or charges from its credit cardholders who have authorized such collection.

(j) A person who adjusts or settles claims in the normal course of that person's practice or employment as an attorney at law and who does not collect charges or premiums in connection with life, annuity or health insurance coverage.

(k) A person licensed as a managing general agent in this state whose activities are limited exclusively to the scope of activities conveyed under such license.

(l) A person who is affiliated with an insurer and who acts solely as an administrator for the direct and assumed insurance business of an affiliated insurer. The insurer is responsible for the acts of the administrator and is responsible for providing all of the administrator's books and records to the insurance director upon a request from the insurance director. For purposes of this paragraph, "insurer" means a licensed insurance company, hospital or professional service corporation or a managed care organization.

(2) "Affiliate" or "affiliated" means an entity or person who directly or indirectly through one (1) or more intermediaries controls or is controlled by, or is under common control with, a specified entity or person.

(3) "Control," including the terms "controlling," "controlled by" and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided in section 41-38069(11), Idaho Code, that control does not exist in fact. The director may determine, after furnishing all persons in interest notice and an opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(4) "Director" means the director of the Idaho department of insurance.

(5) "GAAP" means United States "Generally Accepted Accounting Principles" consistently applied.

(6) "Home state" means the District of Columbia and any state or territory of the United States in which an administrator is incorporated or maintains its principal place of business. If neither the state in which the administrator is incorporated nor the state in which it maintains its principal place of business has adopted the provisions of this chapter, or a substantially similar law governing administrators, the administrator may declare another state in which it conducts business to be its "home state."

(7) "Insurer" means a person undertaking to provide life, annuity or health coverage or self-funded coverage who is subject to regulation under title 41, Idaho Code.

(8) "NAIC" means the "National Association of Insurance Commissioners."

(9) "Nonresident administrator" means an administrator with a home state other than Idaho.

(10) "Underwrites" or "underwriting" means, but is not limited to, the acceptance of employer or individual applications for coverage of individuals in accordance with the written rules of the insurer or self-funded plan, or the overall planning and coordinating of a benefits program.

(11) "Uniform application" means the current version of the NAIC uniform application for third party administrators.

SECTION 9. That Section 41-1702, Idaho Code, be, and the same is hereby amended to read as follows:

41-1702. DEFINITIONS. As used in this chapter:

(1) "Accredited state" means a state in which the insurance department or regulatory agency has qualified as meeting the minimum financial regulatory standards promulgated and established from time to time by the national association of insurance commissioners (NAIC).

(2) "Broker" means an insurance broker or brokers or any other person, firm, association or corporation, when, for any compensation, commission or other thing of value, such person, firm, association or corporation acts or aids in any manner in soliciting, negotiating or procuring the making of any insurance contract on behalf of an insured other than the person, firm, association or corporation.

(3) "Control" or "controlled" has the meaning ascribed in section ~~41-3820~~ 41-3802(2), Idaho Code.

(4) "Controlled insurer" means a licensed insurer which is controlled, directly or indirectly, by a broker.

(5) "Controlling broker" means a broker who, directly or indirectly, controls an insurer.

(6) "Licensed insurer" or "insurer" means any person, firm, association or corporation duly licensed to transact a property/casualty insurance business in this state. The following inter alia<sup>7</sup> are not licensed insurers for the purposes of this chapter:

(a) All risk retention groups as defined in the superfund amendments reauthorization act of 1986, ~~Pub. L. No. P.L.~~ 99-499, 100 Stat. 1613 (1986) and the risk retention act 15 U.S.C. section 3901 et seq. (1982 & and supp. 1986) and chapter 48, title 41, Idaho Code;

(b) All residual market pools and joint underwriting authorities or associations; and

(c) All captive insurers. {For purposes of this chapter, captive insurers are insurance companies owned by another organization whose exclusive purpose is to insure risks of the parent organization and affiliated companies or, in the case of groups and associations, insurance organizations owned by the insureds whose exclusive purpose is to insure risks to member organizations and/or group members and their affiliates}.

SECTION 10. That Section 41-1951, Idaho Code, be, and the same is hereby amended to read as follows:

41-1951. DEFINITIONS. In sections 41-1950 through 41-1965, Idaho Code:

(1) "Advertising" means any written, electronic or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the internet or similar communications media, including film strips, motion pictures and videos, published, disseminated, circulated or placed directly before the public, in this state, for the purpose of creating an interest in or inducing a person to sell, assign, devise, bequest or transfer the death benefit or ownership of a life insurance policy pursuant to a life settlement contract.

(2) "Business of life settlements" means an activity involved in, but not limited to, the offering to enter into, soliciting, negotiating, procuring or effectuating a life settlement contract. The transaction of the business of life settlements is within the scope of the transaction of the business of insurance as provided in section 41-112, Idaho Code.

(3) "Chronically ill" means:

(a) Being unable to perform at least two (2) activities of daily living such as eating, toileting, transferring, bathing, dressing or continence; or

(b) Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

(4) "Financing entity" means an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy or certificate from a life settlement provider, credit enhancer or any entity that has a direct ownership in a policy or certificate that is the subject of a life settlement contract, but:

(a) Whose principal activity related to the transaction is providing funds to effect the life settlement or purchase of one (1) or more settled policies; and

(b) Who has an agreement in writing with one (1) or more licensed life settlement providers to finance the acquisition of life settlement contracts.

"Financing entity" does not include a nonaccredited investor. An "accredited investor" is defined by rule 501 of regulation D, 17 CFR 230.501(a).

(5) "Life insurance producer" means any person licensed in this state as a resident or nonresident insurance producer who has received qualification or authority for life insurance coverage or a life line of coverage pursuant to section 41-1008, Idaho Code.

(6) "Life settlement broker" or "broker" means a person who, working exclusively on behalf of an owner and for a fee, commission or other valuable consideration, offers or attempts to negotiate life settlement contracts between an owner and one (1) or more life settlement providers or one (1) or more life settlement brokers. Notwithstanding the manner in which the life settlement broker is compensated, a life settlement broker is deemed to represent only the owner, and not the insurer or the life settlement provider, and owes a fiduciary duty to the owner to act according to the owner's instructions and in the best interest of the owner. Nothing in this definition reduces or impairs the scope of the definitions in section 30-14-102, Idaho Code, including, but not limited to, agent, broker-dealer, investment adviser, and investment adviser representative. The term does not include an attorney, certified public accountant or a financial planner accredited by a nationally recognized accreditation agency, who is retained to represent the owner and whose compensation is not paid directly or indirectly by the life settlement provider or purchaser.

(7) "Life settlement contract" means an agreement between an owner and a life settlement provider or any affiliate, as that term is defined in section 41-380~~1~~<sup>2</sup>(1), Idaho Code, of the life settlement provider establishing the terms under which compensation or anything of value is or will be paid, which compensation or value is less than the expected death benefits of the policy, in return for the owner's present or future assignment, transfer, sale, hypothecation, devise or bequest of the death benefit or ownership of any portion of the insurance policy or certificate of insurance. Nothing in this definition reduces or impairs the scope of the definition of security contained in section 30-14-102(28), Idaho Code.

(a) "Life settlement contract" includes a premium finance loan made for a life insurance policy on or before the date of issuance of the policy where one (1) or more of the following conditions apply:

(i) The loan proceeds are not used solely to pay premiums for the policy and any costs or expenses incurred by the lender or the borrower in connection with the financing;

(ii) The owner or the insured receives on the date of the premium finance loan a guarantee of a future life settlement value of the policy; or

(iii) The owner or the insured agrees on the date of the premium finance loan to sell the policy or any portion of its death benefit on any date following the issuance of the policy.

(b) "Life settlement contract" includes the transfer, for compensation or value, of ownership or beneficial interest in a trust or other entity that owns such policy if the trust or other person was formed or availed of for the principal purpose of acquiring one (1) or more life insurance

policies which life insurance contract insures the life of a person residing in this state.

(c) "Life settlement contract" does not include any of the following:

(i) A policy loan or accelerated death benefit made by the insurer pursuant to the policy's terms;

(ii) A loan, the proceeds of which are used solely to pay:

(A) Premiums for the policy; and

(B) The costs of the loan, including, without limitation, interest, arrangement fees, utilization fees and similar fees, closing costs, legal fees and expenses, trustee fees and expenses, and third party collateral provider fees and expenses, including fees payable to letter of credit issuers;

(iii) A loan made by a bank or other licensed financial institution in which the lender takes an interest in a life insurance policy solely to secure repayment of a loan or, if there is a default on the loan and the policy is transferred, the transfer of such a policy by the lender, provided that neither the default itself nor the transfer of the policy in connection with the default is pursuant to an agreement or understanding with any other person for the purpose of evading regulation under sections 41-1950 through 41-1965, Idaho Code;

(iv) A loan made by a lender that does not violate the Idaho ~~consumer~~ credit code, provided that the premium finance loan is not described in paragraph (a) of this subsection;

(v) An agreement where all the parties are closely related to the insured by blood or law or have a lawful substantial economic interest in the continued life, health and bodily safety of the person insured, or are trusts established primarily for the benefit of such parties;

(vi) Any designation, consent or agreement by an insured who is an employee of an employer in connection with the purchase by the employer, or trust established by the employer, of life insurance on the life of the employee;

(vii) A bona fide business succession planning arrangement:

(A) Between one (1) or more shareholders in a corporation or between a corporation and one (1) or more of its shareholders or one (1) or more trusts established by its shareholders;

(B) Between one (1) or more partners in a partnership or between a partnership and one (1) or more of its partners or one (1) or more trusts established by its partners; or

(C) Between one (1) or more members in a limited liability company or between a limited liability company and one (1) or more of its members or one (1) or more trusts established by its members;

(viii) An agreement entered into by a service recipient, or a trust established by the service recipient, and a service provider, or a trust established by the service provider, who performs significant services for the service recipient's trade or business; or

(ix) Any other contract, transaction or arrangement exempted from the definition of life settlement contract by the director based on a determination that the contract, transaction or arrangement is not of the type intended to be regulated by sections 41-1950 through 41-1965, Idaho Code.

(8) "Life settlement provider" or "provider" means a person, other than an owner, who enters into or effectuates a life settlement contract with an owner resident in this state. Nothing in this definition reduces or impairs the scope of the definitions of section 30-14-102, Idaho Code, including,

but not limited to, agent, broker-dealer, investment adviser, and investment adviser representative. "Life settlement provider" does not include:

- (a) A bank, savings bank, savings and loan association, credit union or other licensed lending institution that takes an assignment of a life insurance policy solely as collateral for a loan;
- (b) A premium finance company making premium finance loans that takes an assignment of a life insurance policy solely as collateral for a loan;
- (c) The insurer of the life insurance policy;
- (d) An authorized or eligible insurer that provides stop loss coverage or financial guaranty insurance to a life settlement provider, purchaser, financing entity, special purpose entity or related provider trust;
- (e) A financing entity;
- (f) A special purpose entity;
- (g) A related provider trust; or
- (h) Any other person that the director determines is not the type of person intended to be covered by the definition of life settlement provider.

(9) "Owner" means the owner of a life insurance policy or a certificate holder under a group policy who resides in this state and enters or seeks to enter into a life settlement contract. For the purposes of sections 41-1950 through 41-1965, Idaho Code, an owner shall not be limited to an owner of a life insurance policy or a certificate holder under a group policy insuring the life of an individual with a terminal or chronic illness or condition except where specifically addressed.

(a) If there is more than one (1) owner on a single policy and the owners are residents of different states, the transaction shall be governed by the law of the state in which the owner having the largest percentage ownership resides or, if the owners hold equal ownership, the state of residence of one (1) owner agreed upon in writing by all the owners.

(b) "Owner" does not include:

- (i) A licensee under sections 41-1950 through 41-1965, Idaho Code, including a life insurance producer acting as a life settlement broker pursuant to sections 41-1950 through 41-1965, Idaho Code;
- (ii) Qualified institutional buyer as defined, respectively, in rule 144A, 17 CFR 230.144A, promulgated under the federal securities act of 1933, 15 USC section 77a et seq., as amended;
- (iii) A financing entity;
- (iv) A special purpose entity; or
- (v) A related provider trust.

(10) "Policy" means an individual or group policy, group certificate, contract or arrangement of life insurance owned by a resident of this state, regardless of whether delivered or issued for delivery in this state.

(11) "Premium finance loan" means a loan made primarily for the purpose of making premium payments on a life insurance policy, which loan is secured by an interest in such life insurance policy.

(12) "Related provider trust" means a titling trust or other trust established by a licensed life settlement provider or a financing entity for the sole purpose of holding the ownership or beneficial interest in purchased policies in connection with a financing transaction. The trust shall have a written agreement with the licensed life settlement provider under which the licensed life settlement provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files related to life settlement transactions available to the director as if those records and files were maintained directly by the licensed life settlement provider.

(13) "Settled policy" means a life insurance policy or certificate that has been acquired by a life settlement provider pursuant to a life settlement contract.

(14) "Special purpose entity" means a corporation, partnership, trust, limited liability company or other similar entity formed solely to provide either directly or indirectly access to institutional capital markets:

(a) For a financing entity or licensed life settlement provider;

(b) In connection with a transaction in which the securities in the special purposes entity are acquired by the owner or by "qualified institutional buyers" as defined in rule 144A of, 17 CFR 230.144A, promulgated under the federal securities act of 1933, as amended; or

(c) In connection with a transaction in which the securities pay a fixed rate of return commensurate with established asset-backed institutional capital markets.

(15) "Stranger-originated life insurance" or "STOLI" means an act, plan, practice, or arrangement to initiate a life insurance policy for the benefit of a third party investor who, at the time of policy origination, has no insurable interest in the insured. STOLI practices include, but are not limited to, cases in which life insurance is purchased with resources or guarantees from or through a person, who, at the time of policy inception, could not lawfully initiate the policy himself or itself, and where, at the time of inception, there is an arrangement or agreement, whether oral or written, to directly or indirectly transfer the ownership of the policy or the policy benefits to a third party. Trusts that are created to give the appearance of an insurable interest and are used to initiate policies for investors violate insurable interest laws and the prohibition against wagering on life. STOLI arrangements do not include those practices set forth in subsection (7) (c) of this section.

(16) "Terminally ill" means having an illness or sickness that can reasonably be expected to result in death within twenty-four (24) months or less.

SECTION 11. That Section 41-2857, Idaho Code, be, and the same is hereby amended to read as follows:

41-2857. **MERGERS AND CONSOLIDATIONS OF MUTUAL INSURERS.** (1) Except as set forth in section 41-38214, Idaho Code, a domestic mutual insurer shall not merge or consolidate with a stock insurer.

(2) A domestic mutual insurer may merge or consolidate with another mutual insurer under the applicable procedures prescribed by the statutes of this state applying to corporations formed for profit, except as hereinbelow provided.

(3) The plan and agreement for merger or consolidation shall be submitted to and approved by at least two-thirds (2/3) of the members of each mutual insurer voting thereon at meetings called for the purpose pursuant to such reasonable notice and procedure as has been approved by the director. If a life insurer, right to vote may be limited to members whose policies are other than term and group policies, and have been in effect for more than one (1) year.

(4) No such merger or consolidation shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with the director and approved by him in writing after a hearing thereon. The director shall give such approval within a reasonable time after such filing unless he finds such plan or agreement:

(a) Inequitable to the policyholders of any domestic insurer involved; or

(b) Would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in this state and elsewhere; or

(c) Is subject to other material and reasonable objections.

(5) If the director does not approve such plan or agreement, he shall so notify the insurers in writing specifying his reasons therefor.

(6) No director, officer, agent or employee of any insurer party to such merger or consolidation, nor any other person, shall receive any fee, commission or other valuable consideration whatsoever for in any manner aiding, promoting, or assisting therein except as set forth in the plan and agreement approved by the director.

SECTION 12. That Section 41-3312, Idaho Code, be, and the same is hereby amended to read as follows:

41-3312. GROUNDS FOR REHABILITATION. The director may apply by petition to the district court for an order authorizing him to rehabilitate a domestic insurer or an alien insurer domiciled in this state on any one (1) or more of the following grounds:

(1) The insurer is in such condition that the further transaction of business would be hazardous, financially, to its policyholders, creditors, or the public.

(2) There is reasonable cause to believe that there has been embezzlement from the insurer, wrongful sequestration or diversion of the insurer's assets, forgery or fraud affecting the insurer, or other illegal conduct in, by, or with respect to the insurer that if established would endanger assets in an amount threatening the solvency of the insurer.

(3) The insurer has failed to remove any person who in fact has executive authority in the insurer, whether an officer, manager, general agent, employee, or other person, if the person has been found after notice and hearing by the director to be dishonest or untrustworthy in a way affecting the insurer's business.

(4) Control of the insurer, whether by stock ownership or otherwise, and whether direct or indirect, is in a person or persons found after notice and hearing to be untrustworthy.

(5) Any person who in fact has executive authority in the insurer, whether an officer, manager, general agent, director or trustee, employee, or other person, has refused to be examined under oath by the director concerning its affairs, whether in this state or elsewhere, and after reasonable notice of the fact the insurer has failed promptly and effectively to terminate the employment and status of the person and all his influence on management.

(6) After demand by the director under the provisions of section 41-223, Idaho Code, under this act, the insurer has failed to promptly make available for examination any of its own property, books, accounts, documents, or other records, or those of any subsidiary or related company within the control of the insurer, or those of any person having executive authority in the insurer so far as they pertain to the insurer.

(7) Without first obtaining the written consent of the director, the insurer has transferred, or attempted to transfer, in a manner contrary to chapter 38, title 41, Idaho Code, or sections 41-2856 and 41-2858, Idaho Code, substantially its entire property or business, or has entered into any transaction the effect of which is to merge, consolidate, or reinsure substantially its entire property or business in or with the property or business of any other person.

(8) The insurer or its property has been or is the subject of an application for the appointment of a receiver, trustee, custodian, conservator or sequestrator or similar fiduciary of the insurer or its property otherwise than as authorized under the insurance laws of this state, and such appointment has been made or is imminent, and such appointment might oust the courts of this state of jurisdiction or might prejudice orderly delinquency proceedings under this act.



(9) Within the previous six (6) years the insurer has willfully violated its charter or articles of incorporation, its bylaws, any insurance law of this state, or any valid order of the director under the provisions of section 41-3309, Idaho Code.

(10) The insurer has failed to pay within sixty (60) days after due date any obligation to any state or any subdivision thereof or any judgment entered in any state, if the court in which such judgment was entered had jurisdiction over such subject matter except that such nonpayment shall not be a ground until sixty (60) days after any good faith effort by the insurer to contest the obligation has been terminated, whether it is before the director or in the courts, or the insurer has systematically attempted to compromise or renegotiate previously agreed settlements with its creditors on the ground that it is financially unable to pay its obligations in full.

(11) The insurer has failed to file its annual report or other financial report required by statute within the time allowed by law and, after written demand by the director, has failed to give an adequate explanation immediately.

(12) The board of directors or the holders of a majority of the shares entitled to vote, or a majority of those individuals entitled to the control of those entities specified in section 41-380~~1~~2, Idaho Code, request or consent to rehabilitation under this act.

SECTION 13. That Section 41-4703, Idaho Code, be, and the same is hereby amended to read as follows:

41-4703. DEFINITIONS. As used in this chapter:

(1) "Actuarial certification" means a written statement by a member of the American academy of actuaries or other individual acceptable to the director that a small employer carrier is in compliance with the provisions of section 41-4706, Idaho Code, based upon the person's examination and including a review of the appropriate records and the actuarial assumptions and methods used by the small employer carrier in establishing premium rates for applicable health benefit plans.

(2) "Affiliate" or "affiliated" means any entity or person who directly or indirectly through one (1) or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.

(3) "Agent" means a producer as defined in section 41-1003(8), Idaho Code.

(4) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under a rating system for that class of business by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage.

(5) "Board" means the board of directors of the small employer reinsurance program and the individual high risk reinsurance pool as provided for in section 41-5502, Idaho Code.

(6) "Carrier" means any entity that provides, or is authorized to provide, health insurance in this state. For the purposes of this chapter, carrier includes an insurance company, a hospital or professional service corporation, a fraternal benefit society, a health maintenance organization, any entity providing health insurance coverage or benefits to residents of this state as certificate holders under a group policy issued or delivered outside of this state, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

(7) "Case characteristics" means demographic or other objective characteristics of a small employer that are considered by the small employer carrier in the determination of premium rates for the small employer, provided that claim experience, health status and duration of coverage shall not be case characteristics for the purposes of this chapter.

(8) "Catastrophic health benefit plan" means a higher limit health benefit plan developed pursuant to section 41-4712, Idaho Code.

(9) "Class of business" means all or a separate grouping of small employers established pursuant to section 41-4705, Idaho Code.

(10) "Control" shall be defined in the same manner as in section 41-380~~12~~(2), Idaho Code.

(11) "Dependent" in any new or renewing plan means a spouse, an unmarried child under the age of twenty-five (25) years and who receives more than one-half (1/2) of his financial support from the parent, or an unmarried child of any age who is medically certified as disabled and dependent upon the parent.

(12) "Director" means the director of the department of insurance of the state of Idaho.

(13) "Eligible employee" means an employee who works on a full-time basis and has a normal work week of thirty (30) or more hours or, by agreement between the employer and the carrier, an employee who works between twenty (20) and thirty (30) hours per week. The term includes a sole proprietor, a partner of a partnership, and an independent contractor, if the sole proprietor, partner or independent contractor is included as an employee under a health benefit plan of a small employer, but does not include an employee who works on a part-time, temporary, seasonal or substitute basis. The term eligible employee may include public officers and public employees without regard to the number of hours worked when designated by a small employer.

(14) "Established geographic service area" means a geographic area, as approved by the director and based on the carrier's certificate of authority to transact insurance in this state, within which the carrier is authorized to provide coverage.

(15) "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 issues for a period of twelve (12) months or less.

(16) "Index rate" means, for each class of business as to a rating period for small employers with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

(17) "Late enrollee" means an eligible employee or dependent who requests enrollment in a health benefit plan of a small employer following the initial enrollment period during which the individual is entitled to enroll under the terms of the health benefit plan, provided that the initial enrollment period is a period of at least thirty (30) days. However, an eligible employee or dependent shall not be considered a late enrollee if:

(a) The individual meets each of the following:

(i) The individual was covered under qualifying previous coverage at the time of the initial enrollment;

(ii) The individual lost coverage under qualifying previous coverage as a result of termination of employment or eligibility, or the involuntary termination of the qualifying previous coverage; and

(iii) The individual requests enrollment within thirty (30) days after termination of the qualifying previous coverage.

(b) The individual is employed by an employer which offers multiple health benefit plans and the individual elects a different plan during an open enrollment period.

(c) A court has ordered coverage be provided for a spouse or minor or dependent child under a covered employee's health benefit plan and request for enrollment is made within thirty (30) days after issuance of the court order.

(d) The individual first becomes eligible.

(e) If an individual seeks to enroll a dependent during the first sixty (60) days of eligibility, the coverage of the dependent shall become effective:

(i) In the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

(ii) In the case of a dependent's birth, as of the date of such birth; or

(iii) In the case of a dependent's adoption or placement for adoption, the date of such adoption or placement for adoption.

(18) "New business premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or offered or which could have been charged or offered by the small employer carrier to small employers with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

(19) "Plan of operation" means the plan of operation of the program established pursuant to section 41-4711, Idaho Code.

(20) "Plan year" means the year that is designated as the plan year in the plan document of a group health benefit plan, except that if the plan document does not designate a plan year or if there is no plan document, the plan year is:

(a) The deductible/limit year used under the plan;

(b) If the plan does not impose deductibles or limits on a yearly basis, then the plan year is the policy year;

(c) If the plan does not impose deductibles or limits on a yearly basis or the insurance policy is not renewed on an annual basis, then the plan year is the employer's taxable year; or

(d) In any other case, the plan year is the calendar year.

(21) "Premium" means all moneys paid by a small employer and eligible employees as a condition of receiving coverage from a small employer carrier, including any fees or other contributions associated with the health benefit plan.

(22) "Program" means the Idaho small employer reinsurance program created in section 41-4711, Idaho Code.

(23) "Qualifying previous coverage" and "qualifying existing coverage" mean benefits or coverage provided under:

(a) Medicare or medicaid, civilian health and medical program for uniformed services (CHAMPUS), the Indian health service program, a state health benefit risk pool or any other similar publicly sponsored program; or

(b) Any other group or individual health insurance policy or health benefit arrangement whether or not subject to the state insurance laws, including coverage provided by a health maintenance organization, hospital or professional service corporation, or a fraternal benefit society, that provides benefits similar to or exceeding benefits provided under the basic health benefit plan.

(24) "Rating period" means the calendar period for which premium rates established by a small employer carrier are assumed to be in effect.

(25) "Reinsuring carrier" means a small employer carrier participating in the reinsurance program pursuant to section 41-4711, Idaho Code.

(26) "Restricted network provision" means any provision of a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual

arrangement with the carrier to provide health care services to covered individuals.

(27) "Risk-assuming carrier" means a small employer carrier whose application is approved by the director pursuant to section 41-4710, Idaho Code.

(28) "Small employer" means any person, firm, corporation, partnership or association that is actively engaged in business that employed an average of at least two (2) but no more than fifty (50) eligible employees on business days during the preceding calendar year and that employs at least two (2) but no more than fifty (50) eligible employees on the first day of the plan year, the majority of whom were and are employed within this state. In determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of state taxation, shall be considered one (1) employer.

(29) "Small employer basic health benefit plan" means a lower cost health benefit plan developed pursuant to section 41-4712, Idaho Code.

(30) "Small employer carrier" means a carrier that offers health benefit plans covering eligible employees of one (1) or more small employers in this state.

(31) "Small employer catastrophic health benefit plan" means a higher limit health benefit plan developed pursuant to section 41-4712, Idaho Code.

(32) "Small employer standard health benefit plan" means a health benefit plan developed pursuant to section 41-4712, Idaho Code.

SECTION 14. That Section 41-5203, Idaho Code, be, and the same is hereby amended to read as follows:

41-5203. DEFINITIONS. As used in this chapter:

(1) "Actuarial certification" means a written statement by a member of the American academy of actuaries or other individual acceptable to the director that an individual carrier is in compliance with the provisions of section 41-5206, Idaho Code, based upon the person's examination and including a review of the appropriate records and the actuarial assumptions and methods used by the individual carrier in establishing premium rates for applicable health benefit plans.

(2) "Affiliate" or "affiliated" means any entity or person who directly or indirectly through one (1) or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.

(3) "Agent" means a producer as defined in section 41-1003(8), Idaho Code.

(4) "Base premium rate" means, as to a rating period, the lowest premium rate charged or that could have been charged under a rating system by the individual carrier to individuals with similar case characteristics for health benefit plans with the same or similar coverage.

(5) "Carrier" means any entity that provides health insurance in this state. For purposes of this chapter, carrier includes an insurance company, a hospital or professional service corporation, a fraternal benefit society, a health maintenance organization, any entity providing health insurance coverage or benefits to residents of this state as certificate holders under a group policy issued or delivered outside of this state, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

(6) "Case characteristics" means demographic or other objective characteristics of an individual that are considered by the individual carrier in the determination of premium rates for the individual, provided that claim experience, health status and duration of coverage shall not be case characteristics for the purposes of this chapter.

(7) "Control" shall be defined in the same manner as in section 41-380~~1~~2(2), Idaho Code.

(8) "Dependent" in any new or renewing plan means a spouse, an unmarried child under the age of twenty-five (25) years and who receives more than one-half (1/2) of his financial support from the parent, or an unmarried child of any age who is medically certified as disabled and dependent upon the parent.

(9) "Director" means the director of the department of insurance of the state of Idaho.

(10) "Eligible individual" means an Idaho resident individual or dependent of an Idaho resident:

(a) Who is under the age of sixty-five (65) years, is not eligible for coverage under a group health plan, part A or part B of title XVIII of the social security act (medicare), or a state plan under title XIX (medicaid) or any successor program, and who does not have other health insurance coverage; or

(b) Who is a federally eligible individual (one who meets the eligibility criteria set forth in the federal health insurance portability and accountability act of 1996 Public Law 104-191, Sec. 2741(b) (HIPAA)).

An "eligible individual" can be the dependent of an eligible employee, which eligible employee is receiving health insurance benefits subject to the regulation of title 41, Idaho Code.

(11) "Established geographic service area" means a geographic area, as approved by the director and based on the carrier's certificate of authority to transact insurance in this state, within which the carrier is authorized to provide coverage.

(12) "Health benefit plan" means any hospital or medical policy or certificate, any subscriber contract provided by a hospital or professional service corporation, or health maintenance 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.

(13) "Index rate" means, as to a rating period for individuals with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

(14) "Individual basic health benefit plan" means a lower cost health benefit plan developed pursuant to chapter 55, title 41, Idaho Code.

(15) "Individual catastrophic A health benefit plan" means a higher limit health benefit plan developed pursuant to chapter 55, title 41, Idaho Code.

(16) "Individual catastrophic B health benefit plan" means a health benefit plan with limits higher than an individual catastrophic A health benefit plan developed pursuant to chapter 55, title 41, Idaho Code.

(17) "Individual HSA compatible health benefit plan" means a health savings account compatible health benefit plan developed pursuant to section 41-5511, Idaho Code.

(18) "Individual standard health benefit plan" means a health benefit plan developed pursuant to chapter 55, title 41, Idaho Code.

(19) "New business premium rate" means, as to a rating period, the lowest premium rate charged or offered or which could have been charged or offered by the individual carrier to individuals with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

(20) "Premium" means all moneys paid by an individual and eligible dependents as a condition of receiving coverage from a carrier, including any fees or other contributions associated with the health benefit plan.

(21) "Qualifying previous coverage" and "qualifying existing coverage" mean benefits or coverage provided under:

(a) Medicare or medicaid, civilian health and medical program for uniformed services (CHAMPUS), the Indian health service program, a state health benefit risk pool, or any other similar publicly sponsored program; or

(b) Any group or individual health insurance policy or health benefit arrangement whether or not subject to the state insurance laws, including coverage provided by a managed care organization, hospital or professional service corporation, or a fraternal benefit society, that provides benefits similar to or exceeding benefits provided under the basic health benefit plan.

(22) "Rating period" means the calendar period for which premium rates established by a carrier are assumed to be in effect.

(23) "Reinsuring carrier" means a carrier participating in the Idaho individual high risk reinsurance pool established in chapter 55, title 41, Idaho Code.

(24) "Restricted network provision" means any provision of a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual arrangement with the carrier to provide health care services to covered individuals.

(25) "Risk-assuming carrier" means a carrier whose application is approved by the director pursuant to section 41-5210, Idaho Code.

(26) "Individual carrier" means a carrier that offers health benefit plans covering eligible individuals and their dependents.

Approved April 3, 2013.

CHAPTER 267  
(H.B. No. 205)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1004A, IDAHO CODE, TO REMOVE LANGUAGE REFERRING TO A CERTAIN TIME PERIOD.

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

SECTION 1. That Section 33-1004A, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004A. EXPERIENCE AND EDUCATION MULTIPLIER. Each instructional and administrative staff position shall be assigned an appropriate multiplier based upon the following table:

## EXPERIENCE AND EDUCATION

Years	MA						
	BA	BA + 12	BA + 24	BA + 36	BA + 48	BA + 60	MA + 36 ES/DR
0	1.00000	1.03750	1.07640	1.11680	1.15870	1.20220	1.24730
1	1.03750	1.07640	1.11680	1.15870	1.20220	1.24730	1.29410
2	1.07640	1.11680	1.15870	1.20220	1.24730	1.29410	1.34260
3	1.11680	1.15870	1.20220	1.24730	1.29410	1.34260	1.39290
4	1.15870	1.20220	1.24730	1.29410	1.34260	1.39290	1.44510
5	1.20220	1.24730	1.29410	1.34260	1.39290	1.44510	1.49930
6	1.24730	1.29410	1.34260	1.39290	1.44510	1.49930	1.55550
7	1.29410	1.34260	1.39290	1.44510	1.49930	1.55550	1.61380
8	1.34260	1.39290	1.44510	1.49930	1.55550	1.61380	1.67430
9	1.39290	1.44510	1.49930	1.55550	1.61380	1.67430	1.73710
10	1.39290	1.49930	1.55550	1.61380	1.67430	1.73710	1.80220
11	1.39290	1.49930	1.55550	1.61380	1.73710	1.80220	1.86980
12	1.39290	1.49930	1.55550	1.61380	1.73710	1.86980	1.93990
13 or more	1.39290	1.49930	1.55550	1.61380	1.73710	1.86980	2.01260

In determining the experience factor, the actual years of teaching or administrative service in a public school, in an accredited private or parochial school, or beginning in the 2005-06 school year and thereafter in an accredited college or university shall be credited, minus two (2); provided however, that the experience factor cannot be less than zero (0).

In determining the education factor, only credits earned after initial certification, based upon a transcript on file with the teacher certification office of the state department of education, earned at an institution of higher education accredited by the state board of education or a regional accrediting association, shall be allowed. Instructional staff whose initial certificate is an occupational specialist certificate shall be treated as BA degree prepared instructional staff. Credits earned by such occupational specialist instructional staff after initial certification shall be credited toward the education factor. ~~For the time period July 1, 2010, through June 30, 2011, instructional and administrative staff shall not advance on the education portion of the multiplier table.~~

In determining the statewide average multiplier for instructional staff, no multiplier in excess of 1.59092 shall be used. If the actual statewide average multiplier for instructional staff, as determined by this section, exceeds 1.59092, then each school district's instructional staff multiplier shall be multiplied by the result of 1.59092 divided by the actual statewide average multiplier for instructional staff.

In determining the statewide average multiplier for administrative staff, no multiplier in excess of 1.86643 shall be used. If the actual statewide average multiplier for administrative staff, as determined by this section, exceeds 1.86643, then each school district's administrative staff multiplier shall be multiplied by the result of 1.86643 divided by the actual statewide average multiplier for administrative staff.

Approved April 3, 2013.

CHAPTER 268  
(H.B. No. 226)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1002C, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO THE USE OF FULL-TERM AVERAGE DAILY ATTENDANCE TO CALCULATE SUPPORT UNITS FOR CERTAIN ALTERNATIVE SECONDARY SCHOOLS AND TO PROVIDE THAT CERTAIN SUPPORT UNITS SHALL BE USED FOR ALL STATE FUNDING FORMULAS IN WHICH SUPPORT UNITS ARE USED.

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

SECTION 1. That Section 33-1002C, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002C. SUMMER SCHOOL PROGRAM SUPPORT UNITS -- ALTERNATIVE SECONDARY SCHOOL -- JUVENILE DETENTION FACILITY. (1) Alternative secondary summer school programs of not less than two hundred twenty-five (225) hours of instruction, which shall be included in the educational support units calculated as provided in section 33-1002, Idaho Code, may be established as approved by the state board of education. The average daily attendance divided by forty (40) shall determine the number of allowable support units which shall be included in the alternative school secondary support units calculated for the school district for the succeeding school term.

(2) For any alternative secondary school designated pursuant to section 46-805, Idaho Code, full-term average daily attendance shall be used to calculate support units for each cohort of students that meets the minimum instructional hours requirement provided for in section 33-512, Idaho Code. The support units so calculated shall be used for all state funding formulas in which support units are used.

(3) Districts which educate pupils placed by court order in a juvenile detention facility may establish a summer school program which shall be included in the educational support units calculated as provided in section 33-1002, Idaho Code. The average daily attendance divided by forty (40) shall determine the number of allowable support units which shall be included in the exceptional education school support units calculated for the school district for the succeeding school term.

(34) Average daily attendance and the support units so generated by this section shall not be included in or subject to the provisions of section 33-1003, Idaho Code, and shall be included as an addition to any other support units generated pursuant to Idaho Code.

Approved April 3, 2013.

CHAPTER 269  
(H.B. No. 232)

AN ACT

RELATING TO THE INSURANCE CONTRACT; AMENDING CHAPTER 18, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1851, IDAHO CODE, TO DEFINE TERMS AND TO ESTABLISH THAT ANY NOTICE TO A PARTY OR ANY OTHER DOCUMENT REQUIRED UNDER APPLICABLE LAW IN AN INSURANCE TRANSACTION OR THAT IS TO SERVE AS EVIDENCE OF INSURANCE COVERAGE MAY BE DELIVERED, STORED AND PRESENTED BY ELECTRONIC MEANS SO LONG AS IT MEETS CERTAIN REQUIREMENTS, TO PROVIDE PROCEDURES AND TO PROVIDE APPLICATION.

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



SECTION 1. That Chapter 18, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-1851, Idaho Code, and to read as follows:

41-1851. ELECTRONIC NOTICES AND DOCUMENTS. (1) In this section, the following words shall have the following meanings:

(a) "Delivered by electronic means" includes:

(i) Delivery to an electronic mail address at which a party has consented to receive notices or documents; or

(ii) Posting on an electronic network or site accessible via the internet, mobile application, computer, mobile device, tablet or any other electronic device, together with separate notice to a party directed to the electronic mail address at which the party has consented to receive notice of the posting;

(iii) Delivery or posting directly to a mobile device or other electronic device accessible by a party that has consented to conduct insurance transactions electronically.

(b) "Party" means any recipient of any notice or document required as part of an insurance transaction including, but not limited to, an applicant, an insured, a policyholder or an annuity contract holder.

(2) Pursuant to subsection (4) of this section, any notice to a party or any other document required under applicable law in an insurance transaction or that is to serve as evidence of insurance coverage may be delivered, stored and presented by electronic means so long as it meets the requirements of the uniform electronic transactions act, chapter 50, title 28, Idaho Code.

(3) Delivery of a notice or document in accordance with this section shall be considered equivalent to any delivery method required under applicable law, including: delivery by first class mail; first class mail, postage prepaid; certified mail; certificate of mail; or certificate of mailing.

(4) A notice or document may be delivered by electronic means by an insurer to a party under this section if the party has affirmatively consented to that method of delivery and has not withdrawn the consent.

(5) This section does not affect requirements related to content or timing of any notice or document required under applicable law.

(6) If a provision of this title or applicable law requiring a notice or document to be provided to a party expressly requires verification or acknowledgment of receipt of the notice or document, the notice or document may be delivered by electronic means only if the method used provides for verification or acknowledgment of receipt. In the absence of verification or acknowledgment of receipt, the insurer shall mail a paper copy of the notice or document within three (3) days via United States mail.

(7) The legal effectiveness, validity or enforceability of any contract or policy of insurance executed by a party may not be denied solely because of the failure to obtain electronic consent or confirmation of consent of the party.

(8) (a) A withdrawal of consent by a party does not affect the legal effectiveness, validity or enforceability of a notice or document delivered by electronic means to the party before the withdrawal of consent is effective.

(b) A withdrawal of consent by a party is effective within a reasonable period of time after receipt of the withdrawal by the insurer.

(9) The provisions of this section do not apply to a notice or document delivered by an insurer in an electronic form before the effective date of this act to a party who, before that date, has consented to receive notice or document in an electronic form otherwise allowed by law.

(10) If the consent of a party to receive certain notices or documents in an electronic form is on file with an insurer before the effective date

of this act, and pursuant to the provisions of this section, an insurer intends to deliver additional notices or documents to such party in an electronic form, then prior to delivering such additional notices or documents electronically the insurer shall notify the party of:

(a) The notices or documents that may be delivered by electronic means under this section that were not previously delivered electronically; and

(b) The party's right to withdraw consent to have notices or documents delivered by electronic means.

(11) (a) Except as otherwise provided by law, if an oral communication or a recording of an oral communication from a party can be reliably stored and reproduced by an insurer, the oral communication or recording may qualify as a notice or document delivered by electronic means for the purposes of this section.

(b) If a provision of this title or applicable law requires a signature or notice or document to be notarized, acknowledged, verified or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by the provision, is attached to or logically associated with the signature, notice or document.

(12) The provisions of this section may not be construed to modify, limit or supersede the provisions of the federal electronic signatures in global and national commerce act, P.L. 106-229, as amended.

Approved April 3, 2013.

CHAPTER 270  
(H.B. No. 239)

AN ACT

RELATING TO PHARMACISTS; AMENDING SECTION 54-1705, IDAHO CODE, TO DEFINE A TERM AND TO REVISE A DEFINITION; AMENDING SECTION 54-1719, IDAHO CODE, TO PROVIDE THAT THE BOARD OF PHARMACY SHALL BE RESPONSIBLE FOR THE COMPOUNDING, DISPENSING AND DISTRIBUTION OF CERTAIN MEDICATIONS, DRUGS, DEVICES AND OTHER MATERIALS WITHIN THE PRACTICE OF PHARMACY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1752, IDAHO CODE, TO REMOVE REFERENCE TO RETAIL PHARMACIES; AND AMENDING SECTIONS 37-3201, 54-1761, 54-4702 AND 54-5110, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES.

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

SECTION 1. 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) "Compounding" means the act of incorporating two (2) or more substances to create a finished drug product.

(3) "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 medications and devices. Specific areas of counseling shall include, but are not limited to:

(a) Name and strength and description of the medication;

(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 medication 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.

(34) "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.

(45) "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.

(56) "Dispense" or "dispensing" means the preparation and delivery of a prescription drug pursuant to a lawful 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 drug.

(67) "Distribute" means the delivery of a drug other than by administering or dispensing.

(78) "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.

(89) "Drug order" means an order for a patient of an institutional facility, or for other purposes when permitted by board rules that contains at least the name of the patient; date of issuance; the drug name, strength, and route of administration; directions for use; the name of the prescribing practitioner and, if written, the prescribing practitioner's signature or the signature of the practitioner's agent.

(910) "Drug outlets" means all pharmacies and other facilities with 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.

(101) "Extern" means a bona fide student enrolled in an approved college of pharmacy who has not received his first professional degree in pharmacy.

(112) "Externship" means a structured practical experience program in pharmacy, approved by the board and administered by a college of pharmacy.

(123) "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.

(134) "Intern" means any person who has completed a course of study at an approved college of pharmacy, received the first professional degree in pharmacy and is registered with the board as an intern. Interns must register with the board prior to commencement of an internship program.

(145) "Internship" means a postgraduate practical experience program under the supervision of a preceptor at a preceptor site.

(156) "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.

(167) "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 or regulation.

(178) "Limited service outlet" means a facility that is subject to registration or licensure by the board, pursuant to section 54-1729(3), Idaho Code, in that it 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, telepharmacy across state lines or mail service pharmacy.

(189) "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 ~~or~~, 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.

(1920) "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.

(201) "Nonprescription drugs" means medicines or drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this state and the federal government.

(212) "Person" means an individual, corporation, partnership, association or any other legal entity.

(223) "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.

(234) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy or a pharmacist licensed in another state who is registered by the board of pharmacy to engage in the practice of telepharmacy across state lines.

(245) "Pharmacy" means any facility, department or other place where prescriptions are filled or compounded and 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.

(256) "Practice of telepharmacy" means the provision of pharmaceutical care by registered or licensed pharmacies and pharmacists located within United States jurisdictions through the use of telecommunications or other technologies to patients at distances that are located within United States jurisdictions, as defined in the rules of the board.

(267) "Practice of telepharmacy across state lines" means the practice of telepharmacy when the patient is located within the state of Idaho and the pharmacist is located in a United States jurisdiction outside the state of Idaho, as defined in the rules of the board.

(278) "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.

(289) "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.

(2930) "Preceptor" means a pharmacist licensed in the state and in good standing, who supervises the internship training of a registered intern. The preceptor shall be actively engaged in the practice of pharmacy on a full-time employment basis at a registered preceptor site.

(301) "Preceptor site" means any training site for pharmacy interns and externs registered with the board pursuant to board rule.

(312) "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 only or is restricted to use by practitioners only.

(323) "Prescription drug order" means a lawful written or verbal order of a practitioner for a drug or device for an ultimate user of the drug or device, issued and signed by a practitioner, or an order transmitted verbally from a practitioner or the practitioner's agent to a pharmacist in a pharmacy, or transmitted verbally from a practitioner and immediately reduced to writing by a licensed practical nurse or licensed professional nurse in an institutional facility for a patient or resident of such facility.

(334) "Prospective drug review" includes, but is not limited to, the following activities:

- (a) Evaluation of the prescription or medication 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 or medication order for duplication of therapy.
- (c) Evaluation of the prescription or medication order for interactions:
  - (i) Drug-drug;
  - (ii) Drug-food; and

(iii) Drug-disease.

(d) Evaluation of the prescription or medication order for proper utilization:

(i) Over or under utilization; and

(ii) Abuse/misuse.

(345) "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.

(356) "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.

(367) "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.

(378) "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 2. That Section 54-1719, Idaho Code, be, and the same is hereby amended to read as follows:

54-1719. MEDICATIONS -- DRUGS -- DEVICES -- OTHER MATERIALS. The board of pharmacy shall also have the following responsibilities in regard to medications, drugs, devices and other materials used in this state in the diagnosis, mitigation and treatment or prevention of injury, illness and disease:

(1) The regulation of the sale at retail and the dispensing of medications, drugs, devices and other materials, including the method of dispensing in institutional facilities, and including the right to seize such drugs, devices and other materials found to be detrimental to the public health and welfare by the board after appropriate hearing as required under the administrative procedures act;

(2) The specifications of minimum professional and technical equipment, environment, supplies and procedures for the compounding ~~and/or~~, dispensing and distribution of such medications, drugs, devices and other materials within the practice of pharmacy;

(3) The control of the purity and quality of such medications, drugs, devices and other materials within the practice of pharmacy;

(4) The issuance and renewal of certificates of registration of drug outlets for purposes of ascertaining those persons engaged in the manufacture and distribution of drugs.

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 dis-

tribute 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 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) "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.

(12) "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.

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

(14) "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.

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

(16) "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 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.



(17) "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 retail 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 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(3~~1~~2), Idaho Code.

SECTION 5. 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(3~~1~~2), 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 6. 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(3~~1~~2), Idaho Code.

SECTION 7. 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, 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(312), Idaho Code, or medical device unless such prescription drug or medical device is specifically included in the naturopathic medical formulary.

Approved April 3, 2013.

CHAPTER 271  
(H.B. No. 243)

AN ACT

RELATING TO SALES TAXATION; AMENDING SECTION 63-3616, IDAHO CODE, TO PROVIDE THAT APPLICATION SOFTWARE ACCESSED OVER THE INTERNET OR THROUGH WIRELESS MEDIA IS NOT TANGIBLE PERSONAL PROPERTY AND TO DEFINE A TERM; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-3616, Idaho Code, be, and the same is hereby amended to read as follows:

63-3616. TANGIBLE PERSONAL PROPERTY. (a) The term "tangible personal property" means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses.

(b) The term "tangible personal property" includes any computer software which that is not a custom computer program and is not application software accessed over the internet or through wireless media.

(i) As used in this subsection, the term "computer software" means any computer program, part of a program or any sequence of instructions for automatic data processing equipment or information stored in an electronic medium. Computer software is deemed to be tangible personal property for purposes of this chapter regardless of the method by which the title, possession or right to use the software is transferred to the user.

(ii) As used in this subsection, the term "custom computer program" means any computer software (as defined in this subsection) which is written or prepared exclusively for a customer and includes those services represented by separately stated charges for the modification of existing prewritten programs when the modifications are written or prepared exclusively for a customer. The term does not include a "canned" or prewritten program which is held or existing for general or repeated sale, lease or license, even if the program was initially developed on a custom basis or for in-house use. Modification to an existing prewritten program to meet the customer's needs is custom computer programming only to the extent of the modification, and only to the extent that the actual amount charged for the modification is separately stated on invoices, statements, and other billing documents supplied to the purchaser.

(iii) As used in this section, the term "application software accessed over the internet or through wireless media" means the right to use computer software where the software is accessed over the internet or through wireless media from a location owned or maintained by the seller or an agent of the seller and is not loaded and left at the user's location. The term does not include such remotely accessed computer software if the primary purpose of such computer software is for entertainment use, or if the vendor of that computer software offers for sale, in a storage media or by an electronic download, to the user's computer or server, and either directly or through wholesale or retail channels, that same computer software or comparable computer software that performs the same functions.

(c) The term "tangible personal property" does not include advertising space when sold to an advertiser or its agent by the publisher of the newspaper or the magazine in which the advertisement is displayed or circulated.

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 April 3, 2013.

CHAPTER 272  
(H.B. No. 261)

AN ACT

RELATING TO EDUCATION; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-522A, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO A REDUCTION IN FORCE AND TO ESTABLISH PROVISIONS RELATING TO A CERTAIN POLICY; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY AND PROVIDING A SUNSET DATE.

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 33-522A, Idaho Code, and to read as follows:

33-522A. REDUCTION IN FORCE.

(1) (a) The decision to institute a reduction in force and the selection of an employee or employees subject to such reduction shall be at the sole discretion of the board of trustees, except for the following limitation: The decision as to which employee or employees shall be subject

to such reduction shall not be made solely on consideration of employee seniority or contract status.

(b) Each school district may adopt a policy establishing an equitable method of recalling individuals subject to a reduction in force if positions become available subsequent to the reduction in force.

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. The provisions of this act shall be null, void and of no force and effect on and after July 1, 2014.

Approved April 3, 2013.

CHAPTER 273  
(H.B. No. 300)

AN ACT

APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 2014; EXEMPTING APPROPRIATION OBJECT AND PROGRAM TRANSFER LIMITATIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; PROVIDING THAT THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL DIRECT THE STATE CONTROLLER TO LIMIT THE FUNDS TRANSFER TO THE LEGISLATIVE FUND FOR FISCAL YEAR 2014; 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 Legislative Council, the following amounts to be expended 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 CAPITAL OUTLAY	TOTAL
I. LEGISLATIVE SERVICES OFFICE:				
FROM:				
General				
Fund	\$4,164,900	\$198,500		\$4,363,400
Miscellaneous Revenue				
Fund	119,800	524,000		643,800
Legislative Capitol Facilities				
Fund		440,000		440,000
Professional Services				
Fund	<u>1,185,200</u>	<u>89,900</u>		<u>1,275,100</u>
TOTAL	\$5,469,900	\$1,252,400		\$6,722,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
II. PERFORMANCE EVALUATIONS, OFFICE OF:				
FROM:				
General				
Fund	\$670,400	\$88,200	\$3,200	\$761,800
GRAND TOTAL	\$6,140,300	\$1,340,600	\$3,200	\$7,484,100

SECTION 2. EXEMPTIONS FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS. For fiscal year 2014, the Legislative Council 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, 2013, through June 30, 2014. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 3. NON-GENERAL FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Legislative Council any unexpended and unencumbered balances of moneys in the Professional Services Fund as appropriated or reappropriated for fiscal year 2013, to be used for nonrecurring expenditures, for the period July 1, 2013, through June 30, 2014.

SECTION 4. LEGISLATIVE TRANSFER FOR FISCAL YEAR 2014. On July 1, 2013, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall direct the State Controller to limit the amount transferred from the General Fund to the Legislative Fund pursuant to Section 67-451(2), Idaho Code, to \$6,149,000 for the period July 1, 2013, through June 30, 2014.

SECTION 5. EMPLOYEE COMPENSATION. The Legislature 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 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 April 3, 2013.

CHAPTER 274  
(H.B. No. 301)

AN ACT

APPROPRIATING MONEYS TO THE EXECUTIVE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXEMPTING APPROPRIATION 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 Executive Office of the Governor, the following amounts to be expended according to the designated programs and expense classes, from the listed fund for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. ACTING GOVERNOR PAY:			
FROM:			
General			
Fund	\$18,200		\$18,200
II. ADMINISTRATION - GOVERNOR'S OFFICE:			
FROM:			
General			
Fund	\$1,710,300	\$197,900	\$1,908,200
III. EXPENSE ALLOWANCE:			
FROM:			
General			
Fund		\$5,000	\$5,000
GRAND TOTAL	\$1,728,500	\$202,900	\$1,931,400

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Executive Office of the Governor is authorized no more than twenty-two (22) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, 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 2014, the Executive Office of the Governor 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, 2013, through June 30, 2014. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 4. EMPLOYEE COMPENSATION. The Legislature 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 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 April 3, 2013.

CHAPTER 275  
(H.B. No. 306)

AN ACT

APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 2014; EXEMPTING APPROPRIATION FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS; AND PROVIDING GUIDANCE FOR NON-JUDICIAL EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Supreme Court, the following amounts to be expended 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 CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. SUPREME COURT:</b>					
FROM:					
General					
Fund	\$3,531,600	\$357,800		\$186,600	\$4,076,000
Miscellaneous Revenue					
Fund		318,500			318,500
Federal Grant					
Fund	<u>288,600</u>	<u>1,447,500</u>		<u>226,800</u>	<u>1,962,900</u>
TOTAL	\$3,820,200	\$2,123,800		\$413,400	\$6,357,400
<b>II. LAW LIBRARY:</b>					
FROM:					
General					
Fund	\$118,000	\$222,300			\$340,300
<b>III. DISTRICT COURTS:</b>					
FROM:					
General					
Fund	\$9,788,900	\$364,000			\$10,152,900
ISTARS Technology					
Fund	978,300	2,728,900	\$1,156,200		4,863,400
Drug Court, Mental Health and Family Court Services					
Fund	<u>1,809,600</u>	<u>3,208,500</u>	<u>0</u>		<u>5,018,100</u>
TOTAL	\$12,576,800	\$6,301,400	\$1,156,200		\$20,034,400
<b>IV. MAGISTRATES DIVISION:</b>					
FROM:					
General					
Fund	\$12,502,900	\$307,600			\$12,810,500



	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>Drug Court, Mental Health and Family Court Services</b>					
Fund	383,100	2,159,500			2,542,600
<b>Guardianship Pilot Project</b>					
Fund	186,000	93,300			279,300
<b>Senior Magistrate Judges</b>					
Fund		510,000			510,000
<b>Federal Grant</b>					
Fund	<u>0</u>	<u>110,000</u>			<u>110,000</u>
TOTAL	\$13,072,000	\$3,180,400			\$16,252,400
<b>V. JUDICIAL COUNCIL:</b>					
FROM:					
<b>General</b>					
Fund	\$1,800	\$137,600			\$139,400
<b>VI. COURT OF APPEALS:</b>					
FROM:					
<b>General</b>					
Fund	\$1,561,400	\$43,300			\$1,604,700
<b>VII. GUARDIAN AD LITEM ACCOUNT:</b>					
FROM:					
<b>General</b>					
Fund	\$16,700			\$585,000	\$601,700
<b>Guardian Ad Litem</b>					
Fund	<u>0</u>	<u>\$3,700</u>		<u>0</u>	<u>3,700</u>
TOTAL	\$16,700	\$3,700		\$585,000	\$605,400
<b>VIII. WATER ADJUDICATION:</b>					
FROM:					
<b>Drug Court, Mental Health and Family Court Services</b>					
Fund	\$754,200	\$136,700			\$890,900
<b>IX. COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT SERVICES:</b>					
FROM:					
<b>General</b>					
Fund				\$1,594,800	\$1,594,800
<b>Substance Abuse Treatment</b>					
Fund	<u>\$169,700</u>			<u>3,339,100</u>	<u>3,508,800</u>
TOTAL	\$169,700			\$4,933,900	\$5,103,600
<b>GRAND TOTAL</b>	<b>\$32,090,800</b>	<b>\$12,149,200</b>	<b>\$1,156,200</b>	<b>\$5,932,300</b>	<b>\$51,328,500</b>

SECTION 2. EXEMPTIONS FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS. For fiscal year 2014, the Supreme Court 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, 2013, through June 30, 2014. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 3. NON-JUDICIAL EMPLOYEE COMPENSATION. The Legislature 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 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 April 3, 2013.

CHAPTER 276  
(H.B. No. 242)

AN ACT

RELATING TO PROPERTY TAXATION; AMENDING SECTION 63-602W, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SITE IMPROVEMENTS AS BUSINESS INVENTORY EXEMPT FROM PROPERTY TAXATION, TO PROVIDE THAT CERTAIN TRANSFERS SHALL NOT BE CONSIDERED A CONVEYANCE TO A THIRD PARTY, TO PROVIDE FOR A DETERMINATION OF THE AMOUNT OF EXEMPTION, TO PROVIDE FOR APPLICATION FOR ASSESSMENT, TO PROVIDE FOR NOTIFICATION BY THE BOARD OF COUNTY COMMISSIONERS TO THE TAXPAYER AND COUNTY ASSESSOR RELATING TO ITS DECISION AND ASSESSMENT, TO PROVIDE FOR APPEAL, TO PROVIDE FOR NOTIFICATION OF CHANGE IN ELIGIBILITY 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 63-602W, Idaho Code, be, and the same is hereby amended to read as follows:

63-602W. BUSINESS INVENTORY EXEMPT FROM TAXATION -- BUSINESS INVENTORY THAT IS A COMPONENT OF REAL PROPERTY THAT IS A SINGLE FAMILY DWELLING. The following property is exempt from property taxation: business inventory. For the purpose of this section, "business inventory" means all items of tangible personal property or other property, including site improvements, described as:

- (1) All livestock, fur-bearing animals, fish, fowl and bees.
- (2) All nursery stock, stock-in-trade, merchandise, products, finished or partly finished goods, raw materials, and all forest products subject to the provisions of chapter 17, title 63, Idaho Code, supplies, containers and other personal property which that is held for sale or consumption in the ordinary course of the taxpayer's manufacturing, farming, wholesale jobbing, or merchandising business.
- (3) Residential improvements never occupied. Once residential improvements are occupied as defined in section 63-317, Idaho Code, they shall

be subject to the tax provided by section 63-317, Idaho Code. The provisions of section 63-602Y, Idaho Code, shall not apply to the exemption provided by this subsection. The exemption provided by this subsection applies only to improvements to real property, and only until first occupied. For purposes of this section, the term "residential improvements" means only:

- (a) Single family residences; or
- (b) Residential townhouses; or
- (c) Residential condominium units.

The nonresidential portion of an improvement to real property that is used or is to be used for residential and nonresidential purposes does not qualify for the exemption provided by this section. If an improvement contains multiple residential units, each such unit shall lose the exemption provided in this section when it becomes occupied.

(4) Site improvements, that are associated with land, such as roads and utilities, on real property held by the land developer, either as owner or vendee in possession under a land sale contract, for sale or consumption in the ordinary course of the land developer's business until other improvements, such as buildings or structural components of buildings, are begun or title to the land the real property is conveyed from to a third party. For purposes of this subsection, a transfer of title to real property to a legal entity of which at least fifty percent (50%) is owned by the land developer, the land developer's original entity or the same principals who owned the land developer's original entity shall not be considered a conveyance to a third party. For purposes of this subsection, the amount of the exemption shall be the difference between the market value of the land with site improvements and the market value of the land without site improvements as shall be determined by a comparative market analysis of a similarly situated parcel or parcels of real property that have not been improved with such site improvements contemplated by this subsection. In the case the market value of land without site improvements cannot be reasonably assessed because of the absence of comparable sales, an exemption value of seventy-five percent (75%) of the market value of land with site improvements shall be granted to that parcel. An application is required for the exemption provided in this subsection in the first year the exemption is claimed; in subsequent consecutive years no new application is required. The application must be made to the board of county commissioners by April 15 and the taxpayer and county assessor must be notified of any decision and assessment of property by May 15. The decision or assessment of property, or both, of the board of county commissioners may be appealed to the county board of equalization no later than the fourth Monday in June. The applicant shall notify the board of county commissioners in writing of any change in eligibility for the parcel by April 15.

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, 2013.

Law without signature.

CHAPTER 277  
(H.B. No. 222)

AN ACT

RELATING TO VETERANS; PROVIDING A SHORT TITLE AND LEGISLATIVE INTENT; AMENDING TITLE 65, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 7, TITLE 65, IDAHO CODE, TO PROVIDE LEGISLATIVE PURPOSE, TO CREATE THE IDAHO VETERANS RECOGNITION FUND, TO PROVIDE DISTRIBUTIONS FROM THE VETERANS RECOGNITION FUND, TO CREATE THE IDAHO VETERANS RECOGNITION INCOME FUND, TO PROVIDE A COMMITTEE TO PREPARE AND RECOMMEND AN ALLOCATION PLAN AND TO PROVIDE FOR AN ANNUAL ALLOCATION PLAN.

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

SECTION 1. SHORT TITLE -- LEGISLATIVE INTENT. This act shall be known as the "Idaho Veterans Recognition Act" and shall establish a program to recognize the service of Idaho veterans. It is the intent of the Legislature that interest and earnings from moneys in the Idaho Veterans Recognition Fund be transferred annually to the Idaho Veterans Recognition Income Fund, and that moneys in the Idaho Veterans Recognition Income Fund be used to benefit veterans in Idaho, with priority given to activities that support disabled veterans.

SECTION 2. That Title 65, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 7, Title 65, Idaho Code, and to read as follows:

CHAPTER 7  
IDAHO VETERANS RECOGNITION ACT

65-701. PURPOSE. The purpose of this chapter is to establish a program to recognize the service of Idaho veterans. This chapter is intended to support programs or organizations that serve veterans.

65-702. IDAHO VETERANS RECOGNITION FUND. (1) There is hereby created in the state treasury the "Idaho veterans recognition fund." The state treasurer is hereby granted the authority to invest the assets of the fund in any investment instruments authorized by the standards of the Idaho uniform prudent investor act, chapter 5, title 68, Idaho Code.

(2) The fund shall consist of moneys appropriated from excess earnings from funds maintained by the division of veterans services and shall maintain its interest and investment earnings generated by such moneys in the fund.

(3) Money in the fund shall be used solely to benefit veterans in Idaho, with priority given to activities that serve disabled veterans.

65-703. DISTRIBUTIONS FROM THE IDAHO VETERANS RECOGNITION FUND. (1) On the first business day of each July, or as soon thereafter as possible, the administrator of the division of veterans services, as directed by the Idaho veterans recognition committee, shall request the state controller to make a transfer to the Idaho veterans recognition income fund.

(2) The amount of the transfer shall not exceed five percent (5%) of the Idaho veterans recognition fund's average monthly fair market value for the first twelve (12) months of the preceding twenty-four (24) months. Further, the distribution shall not exceed the Idaho veterans recognition fund's fair market value on the first business day in July.

65-704. IDAHO VETERANS RECOGNITION INCOME FUND. (1) There is hereby created in the state treasury the "Idaho veterans recognition income fund."

(2) The fund shall consist of moneys transferred from the Idaho veterans recognition fund.

(3) The fund shall be used solely to benefit veterans in Idaho, with priority given to activities that serve disabled veterans.

(4) Moneys in the Idaho veterans recognition income fund are subject to appropriation by the legislature.

(5) Any unencumbered moneys remaining in the fund on June 30 of each year shall be transferred back to the Idaho veterans recognition fund.

65-705. COMMITTEE TO PREPARE AND RECOMMEND ALLOCATION PLAN. (1) A committee consisting of seven (7) members, herein referred to as the Idaho veterans recognition committee, shall annually prepare a recommendation to the governor and the legislature on how to spend the available funds in the Idaho veterans recognition income fund. Committee members shall include the five members of the Idaho veterans affairs commission and two additional members to be appointed by the governor. At least one (1) of the members shall have served in a recent war or conflict engaged in by the government of the United States and at least one (1) member shall be a disabled veteran. For purposes of the appointment to the committee, a disabled veteran shall have a current service-connected disability of thirty percent (30%) or more.

(2) The committee shall:

(a) Maintain a familiarity with the needs of veterans returning from armed service;

(b) Establish priorities for use of moneys in the Idaho veterans recognition income fund; and

(c) Make a recommendation each year to the governor and legislature on use of moneys in the Idaho veterans recognition income fund in the form of an annual allocation plan.

65-706. ANNUAL ALLOCATION PLAN. (1) The annual allocation plan shall include, at a minimum:

(a) A discussion of the previous year's budget, expenditure amounts, use of funds and program outcomes;

(b) A progress update for current year activities;

(c) A recommendation for the following year, including expected budget, proposed use of funds and timeline of expenditures; and

(d) Identification of additional needs of Idaho veterans that resources within the fund are inadequate to address.

(2) In preparation of the plan, the committee shall solicit public comment in a public meeting.

(3) The committee shall submit the annual allocation plan to the administrator of the division of veterans services by August 1, or as soon thereafter as possible, each year.

(4) In addition to the requirements of chapter 35, title 67, Idaho Code, the division of veterans services shall include the annual allocation plan in its annual budget request.

Approved April 4, 2013.

CHAPTER 278  
(H.B. No. 90, As Amended)

AN ACT

RELATING TO RETAIL SALE OF LIQUOR BY THE DRINK; AMENDING SECTION 23-903, IDAHO CODE, TO CLARIFY THE TRANSFERABILITY AND NONTRANSFERABILITY OF CERTAIN LIQUOR LICENSES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 23-903, Idaho Code, be, and the same is hereby amended to read as follows:

23-903. LICENSE TO RETAIL LIQUOR. (1) The director of the Idaho state police is hereby empowered, authorized, and directed to issue licenses to qualified applicants, as herein provided, whereby the licensee shall be authorized and permitted to sell liquor by the drink at retail and, upon the issuance of such license, the licensee therein named shall be authorized to sell liquor at retail by the drink, but only in accordance with the rules promulgated by the director and the provisions of this chapter. No license shall be issued for the sale of liquor on any premises outside the incorporated limits of any city except as provided in this chapter and the number of licenses so issued for any city shall not exceed one (1) license for each one thousand five hundred (1,500) of population of said city or fraction thereof, as established in the last preceding census, or any subsequent special census conducted by the United States bureau of the census or by an estimate that is statistically valid including adding the number of new residential utility connections or including adding the population of areas annexed into the city after the last census or special census was conducted, except that upon proper application thereof not more than two (2) licenses may be issued for each incorporated city with a population of one thousand five hundred (1,500) or less, unless the retail licensing of liquor by the drink has been previously disapproved under the provisions of sections 23-917, 23-918, 23-919, 23-920 and 23-921, Idaho Code; provided, however, that any license heretofore issued may be renewed from year to year without regard to the population or status of the city for which such license is issued. Any license issued and which has remained in effect at its location for a consecutive period of ten (10) years or more shall be deemed to have been validly issued and may be renewed from year to year provided, however, that the applicant for the renewal of such license is not otherwise disqualified for licensure pursuant to section 23-910, Idaho Code, and, if the premises required special characteristics for original licensure, other than being either within or without the incorporated limits of a city, that said premises continue to have such special characteristics at the time of the application for renewal.

(2) Nothing herein contained shall prohibit the issuance of a license to the owner, operator, or lessee of an actual, bona fide golf course whether located within or without the limits of any city, or located on premises also operated as a winery, or ski resort, or to the lessee of any premises situate thereon, whether located within or without the limits of any city. For the purpose of this section, a golf course shall comprise an actual, bona fide golf course, which is regularly used for the playing of the game of golf, and having not less than nine (9) tees, fairways and greens laid out and used in the usual and regular manner of a golf course. Nine (9) hole courses must have a total yardage of at least one thousand (1,000) yards, and eighteen (18) hole courses must have a total yardage of at least two thousand (2,000) yards as measured by totaling the tee-to-green distance of all holes. The course must be planted in grass except that it may provide artificial tee

mats. Where any such golf course is owned or leased by an association of members and is used or enjoyed by such members or their guests, none of the disqualifications contained in section 23-910, Idaho Code, shall apply to such association as a licensee where such disqualifications, or any of them, would apply only to a member of such association where such member has no interest therein except as a member thereof.

(3) Also for the purpose of this section, a ski resort shall comprise real property of not less than ten (10) acres in size, exclusive of the terrain used for skiing and upon which the owner, operator or lessee of the ski resort has made available himself or through others, including, but not limited to, the owners of condominiums, permanent bona fide overnight accommodations available to the general public for one hundred (100) persons or more, and which real property is contiguous to or located within the area in which skiing occurs, and which real property is regularly operated as a ski resort in the winter time, and where the owner, operator or lessee of the ski resort is also the owner, operator or lessee of the area served by a bona fide chair ski lift facility or facilities. Alternatively, for the purpose of this section, a ski resort may also be defined as a downhill ski area, open to the public, comprising real property of not less than two hundred fifty (250) skiable acres, operating two (2) or more chair lifts with a vertical lift of one thousand (1,000) feet or more, and capable of transporting a minimum of one thousand eight hundred (1,800) skiers per hour. A ski resort qualifying under this definition shall also have on the premises a lodge facility providing shelter and food service to the public, the operator of which shall also be the valid owner or lessee of the grounds and facilities upon which the ski resort offers downhill skiing services to the public. The fees for licenses granted to ski resorts shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Not more than one (1) licensed premises shall be permitted on any golf course or any ski resort or within the area comprising the same.

(4) Nothing herein contained shall prohibit the issuance of a license to the owner, operator or lessee of an actual bona fide equestrian facility located on not less than forty (40) contiguous acres, with permanently erected seating of not less than six thousand (6,000) seats, no part of which equestrian facility or the premises thereon is situate within the incorporated limits of any city, and which facility shall have at least three (3) days per year of a professionally sanctioned rodeo. Not more than one (1) licensed premises shall be permitted at any equestrian facility or within an area comprising such a facility. ~~The license shall be solely for the equestrian facility and shall not be transferred to any other location.~~ The fees for licenses granted to equestrian facilities shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code.

(5) Nothing herein contained shall prohibit the issuance of a license to the owner, operator or lessee of a restaurant operated on an airport owned or operated by a county or municipal corporation or on an airport owned or operated jointly by a county and municipal corporation, and which said airport is served by a trunk or local service air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board of the United States of America. Not more than one (1) license shall be issued on any airport.

(6) Nothing herein contained shall prohibit the issuance of one (1) club license to a club as defined in section 23-902, Idaho Code. The holder of a club license is authorized to sell and serve alcoholic beverages for consumption only within the licensed establishment owned, leased or occupied by the club, and only to bona fide members of the club, and to serve and to sell alcoholic beverages for consumption to bona fide members' guests. A club license issued pursuant to the provisions of this section is not transferable and may not be sold. Any club license issued pursuant to the provisions of this section will revert to the director when, in his judgment,

the licensee ceases to operate as a bona fide club as defined in section 23-902, Idaho Code. No club may hold a liquor license and a club license simultaneously. A club which on July 1, 1983, holds a liquor license, may continue to possess that license. Any club which possesses a liquor license on January 1, 1983, or thereafter, and then sells that liquor license, may not obtain a club license, and the director shall not issue a club license to that club for a period of five (5) years following such sale. The fee for any license issued to a qualifying club within an incorporated municipality shall be as prescribed in subsections (1), (2) and (3) of section 23-904, Idaho Code. The fee for any license issued to a qualifying club not situate within an incorporated municipality shall be as specified for golf courses under section 23-904(6), Idaho Code. The provisions of section 23-916, Idaho Code, regarding county and city licenses, shall pertain to club licenses. The burden of producing sufficient documentation of qualifications for club licensure shall be with the club applicant.

(7) Nothing in this chapter to the contrary shall prohibit the issuance of a license to the owner, operator, or lessee of an actual, bona fide convention center which is within the incorporated limits of a city having a population of three thousand (3,000) or greater, and which city does not have located therein a convention center with a valid convention center license to sell liquor by the drink. For the purpose of this section, a convention center means a facility having at least thirty-five thousand (35,000) square feet of floor space or a facility having at least one hundred twenty (120) sleeping rooms and an adjoining meeting room which will accommodate not less than three hundred fifty (350) persons, whether or not such room may be partitioned into smaller rooms, and provided that such meeting room shall contain at least three thousand (3,000) square feet of floor space. Such license must be placed in actual use in said convention center within one (1) year from the date of its issuance. The fee for any license issued to a qualifying convention center shall be as prescribed in subsection (3) of section 23-904, Idaho Code. ~~No license issued to a convention center hereunder shall be transferable to another location or facility, nor shall t~~The holder of a convention center license shall not be eligible for the issuance of a license in the same city pursuant to any other provision of this chapter. For purposes of this section, the term "holder" shall include an owner, operator or lessee and shall include a stockholder, director, or officer of a corporation, or a partner in a partnership, which corporation or partnership has been issued a convention center license pursuant to this chapter. Not more than one (1) licensed premises shall be permitted on any convention center or within the area comprising the same, including convention centers that also comprise golf courses or ski resorts as herein defined.

(8) Nothing in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a food, beverage and/or lodging facility that has been in continuous operation in the same location for at least seventy-five (75) years, except for temporary closings for refurbishing or reconstruction, or a food, beverage and lodging facility serving the public by reservation only, having a minimum of five (5) rooms operating in a structure that has been in existence for at least seventy-five (75) years and has been on the historic register for a minimum of ten (10) years, is situated within five hundred (500) yards of a natural lake containing a minimum of thirty-six thousand (36,000) acre feet of water when full with a minimum of thirty-two (32) miles of shoreline, and is located in a county with a minimum population of sixty-five thousand (65,000). The provisions of section 23-910, Idaho Code, shall apply to licenses issued to continuous operation facilities. The fees shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. ~~Licenses issued to continuous operation facilities are not transferable.~~

(9) Nothing in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of the lodging, dining and entertainment



facilities owned by a gondola resort complex and operated in conjunction with the other public services provided by a gondola resort complex located within the ownership/leasehold boundaries of a gondola resort complex.

A gondola resort complex means an actual, bona fide gondola capable of transporting people for recreational and/or entertainment purposes at least three (3) miles in length with a vertical rise of three thousand (3,000) feet, portions of which may be located within or over the limits of one (1) or more cities.

(10) Nothing in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a winery also operating a golf course on the premises.

(11) Subject to approval of the mayor and city council, nothing in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a food, conference and lodging facility constructed after May 1, 2000, containing a minimum of thirty-five thousand (35,000) square feet and fifty-five (55) guest rooms with a minimum taxable value of three million dollars (\$3,000,000) in a city with a population of less than five thousand (5,000) according to the most recent census.

(12) The provisions of section 23-910, Idaho Code, shall apply to licenses issued under the provisions of this section. The fees shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Except for licenses issued pursuant to subsection (1) of this section, licenses issued under the provisions of this section are not transferable to any other location, facility or premise.

Approved April 9, 2013.

#### CHAPTER 279

(H.B. No. 98, As Amended, As Amended in the Senate)

#### AN ACT

RELATING TO MEDICAL INDIGENCY; AMENDING SECTION 31-3501, IDAHO CODE, TO REVISE THE DECLARATION OF POLICY TO INCLUDE DEPENDENTS; AMENDING SECTION 31-3502, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 31-3504, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SUBMISSION OF MEDICAL RECORDS AND MEDICAL CLAIMS AS PART OF AN APPLICATION FOR FINANCIAL ASSISTANCE; AMENDING SECTION 31-3505, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 31-3505A, IDAHO CODE, TO PROVIDE THAT FINDINGS OF INDIGENCY SHALL START ON THE DATE NECESSARY MEDICAL SERVICES ARE FIRST PROVIDED; AND AMENDING SECTION 31-3508A, IDAHO CODE, TO REVISE TERMINOLOGY.

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

SECTION 1. That Section 31-3501, Idaho Code, be, and the same is hereby amended to read as follows:

31-3501. DECLARATION OF POLICY. (1) It is the policy of this state that each person, to the maximum extent possible, is responsible for his or her own medical care and that of his or her dependents and to that end, shall be encouraged to purchase his or her own medical insurance with coverage sufficient to prevent them from needing to request assistance pursuant to this chapter. However, in order to safeguard the public health, safety and welfare, and to provide suitable facilities and provisions for the care and hospitalization of persons in this state, and, in the case of medically indigent residents, to provide for the payment thereof, the respective counties of this state, and the board and the department shall have the duties and powers as hereinafter provided.

(2) The county medically indigent program and the catastrophic health care cost program are payers of last resort. Therefore, applicants or third party applicants seeking financial assistance under the county medically indigent program and the catastrophic health care cost program shall be subject to the limitations and requirements as set forth herein.

SECTION 2. That Section 31-3502, Idaho Code, be, and the same is hereby amended to read as follows:

31-3502. DEFINITIONS. As used in this chapter, the terms defined in this section shall have the following meaning, unless the context clearly indicates another meaning:

(1) "Applicant" means any person who is requesting financial assistance under this chapter.

(2) "Application" means the combined application for state and county medical assistance pursuant to sections 31-3504 and 31-3503E, Idaho Code. In this chapter an application for state and county medical assistance shall also mean an application for financial assistance.

(3) "Board" means the board of the catastrophic health care cost program, as established in section 31-3517, Idaho Code.

(4) "Case management" means coordination of services to help meet a patient's health care needs, usually when the patient has a condition that requires multiple services.

(5) "Catastrophic health care costs" means the cost of necessary medical services received by a recipient that, when paid at the then existing reimbursement rate, exceeds the total sum of eleven thousand dollars (\$11,000) in the aggregate in any consecutive twelve (12) month period.

(6) "Clerk" means the clerk of the respective counties or his or her designee.

(7) "Completed application" shall include at a minimum the cover sheet requesting services, applicant information including diagnosis and requests for services and signatures, personal and financial information of the applicant and obligated person or persons, patient rights and responsibilities, releases and all other signatures required in the application.

(8) "County commissioners" means the board of county commissioners in their respective counties.

(9) "County hospital" means any county approved institution or facility for the care of sick persons.

(10) "Department" means the department of health and welfare.

(11) "Dependent" means any person whom a taxpayer could claim as a dependent under the income tax laws of the state of Idaho.

(12) "Emergency service" means a service provided for a medical condition in which sudden, serious and unexpected symptoms of illness or injury are sufficiently severe to necessitate or call for immediate medical care, including, but not limited to, severe pain, that the absence of immediate medical attention could reasonably be expected by a prudent person who possesses an average knowledge of health and medicine, to result in:

(a) Placing the patient's health in serious jeopardy;

(b) Serious impairment to bodily functions; or

(c) Serious dysfunction of any bodily organ or part.

(13) "Hospital" means a facility licensed and regulated pursuant to sections 39-1301 through 39-1314, Idaho Code, or an out-of-state hospital providing necessary medical services for residents of Idaho, wherein a reciprocal agreement exists, in accordance with section 31-3503B, Idaho Code, excluding state institutions.

(14) "Medicaid eligibility review" means the process used by the department to determine whether a person meets the criteria for medicaid coverage.

(15) "Medical claim" means the itemized statements and standard forms used by hospitals and providers to satisfy centers for medicare and medicaid services (CMS) claims submission requirements.

(16) "Medical home" means a model of primary and preventive care delivery in which the patient has a continuous relationship with a personal physician in a physician directed medical practice that is whole person oriented and where care is integrated and coordinated.

(17) "Medically indigent" means any person who is in need of necessary medical services and who, if an adult, together with his or her spouse, or whose parents or guardian if a minor or dependent, does not have income and other resources available to him from whatever source sufficient to pay for necessary medical services. Nothing in this definition shall prevent the board and the county commissioners from requiring the applicant and obligated persons to reimburse the county and the catastrophic health care cost program, where appropriate, for all or a portion of their medical expenses, when investigation of their application pursuant to this chapter, determines their ability to do so.

(18) A. "Necessary medical services" means health care services and supplies that:

(a) Health care providers, exercising prudent clinical judgment, would provide to a person for the purpose of preventing, evaluating, diagnosing or treating an illness, injury, disease or its symptoms;

(b) Are in accordance with generally accepted standards of medical practice;

(c) Are clinically appropriate, in terms of type, frequency, extent, site and duration and are considered effective for the covered person's illness, injury or disease;

(d) Are not provided primarily for the convenience of the person, physician or other health care provider; and

(e) Are the most cost-effective service or sequence of services or supplies, and at least as likely to produce equivalent therapeutic or diagnostic results for the person's illness, injury or disease.

B. Necessary medical services shall not include the following:

(a) Bone marrow transplants;

(b) Organ transplants;

(c) Elective, cosmetic and/or experimental procedures;

(d) Services related to, or provided by, residential, skilled nursing, assisted living and/or shelter care facilities;

(e) Normal, uncomplicated pregnancies, excluding caesarean section, and childbirth well-baby care;

(f) Medicare copayments and deductibles;

(g) Services provided by, or available to, an applicant from state, federal and local health programs;

(h) Medicaid copayments and deductibles; and

(i) Drugs, devices or procedures primarily utilized for weight reduction and complications directly related to such drugs, devices or procedures.

(19) "Obligated person" means the person or persons who are legally responsible for an applicant including, but not limited to, parents of minors or dependents.

(20) "Primary and preventive health care" means the provision of professional health services that include health education and disease prevention, initial assessment of health problems, treatment of acute and chronic health problems and the overall management of an individual's health care services.

(21) "Provider" means any person, firm or corporation certified or licensed by the state of Idaho or holding an equivalent license or certification in another state, that provides necessary medical services to a patient

requesting a medically indigent status determination or filing an application for financial assistance.

(22) "Recipient" means an individual determined eligible for financial assistance under this chapter.

(23) "Reimbursement rate" means the unadjusted medicaid rate of reimbursement for medical charges allowed pursuant to title XIX of the social security act, as amended, that is in effect at the time service is rendered. Beginning July 1, 2011, and sunseting July 1, 2013<sup>4</sup>, "reimbursement rate" shall mean ninety-five percent (95%) of the unadjusted medicaid rate.

(24) "Resident" means a person with a home, house, place of abode, place of habitation, dwelling or place where he or she actually lived for a consecutive period of thirty (30) days or more within the state of Idaho. A resident does not include a person who comes into this state for temporary purposes, including, but not limited to, education, vacation, or seasonal labor. Entry into active military duty shall not change a person's residence for the purposes of this chapter. Those physically present within the following facilities and institutions shall be residents of the county where they were residents prior to entering the facility or institution:

- (a) Correctional facilities;
- (b) Nursing homes or residential or assisted living facilities;
- (c) Other medical facility or institution.

(25) "Resources" means all property, for which an applicant and/or an obligated person may be eligible or in which he or she may have an interest, whether tangible or intangible, real or personal, liquid or nonliquid, or pending, including, but not limited to, all forms of public assistance, crime victims compensation, worker's compensation, veterans benefits, medicaid, medicare, supplemental security income (SSI), third party insurance, other insurance or apply for section 1011 of the medicare modernization act of 2003, if applicable, and any other property from any source. Resources shall include the ability of an applicant and obligated persons to pay for necessary medical services, excluding any interest charges, over a period of up to five (5) years starting on the date necessary medical services are first provided. For purposes of determining approval for medical indigency only, resources shall not include the value of the homestead on 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.

(26) "Third party applicant" means a person other than an obligated person who completes, signs and files an application on behalf of a patient. A third party applicant who files an application on behalf of a patient pursuant to section 31-3504, Idaho Code, shall, if possible, deliver a copy of the application to the patient within three (3) business days after filing the application.

(27) "Third party insurance" means casualty insurance, disability insurance, health insurance, life insurance, marine and transportation insurance, motor vehicle insurance, property insurance or any other insurance coverage that may pay for a resident's medical bills.

(28) "Utilization management" means the evaluation of medical necessity, appropriateness and efficiency of the use of health care services, procedures and facilities. "Utilization management" may include, but is not limited to, preadmission certification, the application of practice guidelines, continued stay review, discharge planning, case management, preauthorization of ambulatory procedures, retrospective review and claims review. "Utilization management" may also include the amount to be paid based on the application of the reimbursement rate to those medical services determined to be necessary medical services.

SECTION 3. That Section 31-3504, Idaho Code, be, and the same is hereby amended to read as follows:

31-3504. APPLICATION FOR FINANCIAL ASSISTANCE. (1) Except as provided for in section 31-3503E, Idaho Code, an applicant or third party applicant requesting assistance under this chapter shall complete a written application. The truth of the matters contained in the completed application shall be sworn to by the applicant or third party applicant. The completed application shall be deemed consent for the providers, the hospital, the department, respective counties and board to exchange information pertaining to the applicant's health and finances for the purposes of determining medicaid eligibility or medical indigency. The completed application shall be signed by the applicant or third party applicant, an authorized representative of the applicant, or, if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant and filed in the clerk's office. If the clerk determines that the patient may be eligible for medicaid, within one (1) business day of the filing of the completed application in the clerk's office, the clerk shall transmit a copy of the application and a written request for medicaid eligibility determination to the department.

(a) If, based on its medicaid eligibility review, the department determines that the patient is eligible for medicaid, the department shall act on the application as an application for medicaid.

(b) If, based on its medicaid eligibility review, the department determines that the patient is not eligible for medicaid, the department shall notify the clerk of the denial and the reason therefor, in accordance with section 31-3503E, Idaho Code. Denial of medicaid eligibility is not a determination of medical indigence.

(2) If a third party completed application is filed, the application shall be presented in the same form and manner as set forth in subsection (1) of this section.

(3) Follow-up necessary medical services based on a treatment plan, for the same condition, preapproved by the county commissioners, may be provided for a maximum of six (6) months from the date of the original application without requiring an additional application; however, a request for additional treatment not specified in the approved treatment plan shall be filed with the clerk ten (10) days prior to receiving services. Beyond the six (6) months, 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 and an updated application may be requested by the county commissioners.

(4) Upon application for financial assistance pursuant to this chapter an automatic lien shall attach to all real and personal property of the applicant and on insurance benefits to which the applicant may become entitled. The lien shall also attach to any additional resources to which it may legally attach not covered in this section. The lien created by this section may be, in the discretion of the county commissioners and the board, perfected as to real property and fixtures by recording a document entitled: notice of lien and application for financial assistance, in any county recorder's office in this state in which the applicant and obligated person own property. The notice of lien and application for financial assistance shall be recorded as provided herein within thirty (30) days from receipt of an application, and such lien, if so recorded, shall have a priority date as of the date the necessary medical services were provided. The lien created by this section may also be, in the discretion of the county commissioners and the board, perfected as to personal property by filing with the secretary of state within thirty (30) days of receipt of an application, a notice of application in substantially the same manner as a filing under chapter 9, title 28, Idaho Code, except that such notice need not be signed and no fee shall be required, and, if so filed, such lien shall have the priority date as of the date the necessary medical services were provided. An application for assistance pursuant to this chapter shall waive any confidentiality granted by state law to the extent necessary to carry out the intent of this section.

(5) In accordance with rules and procedures promulgated by the department or the board, each hospital and provider seeking reimbursement under this chapter shall submit all known billings for medical records and medical claims relevant to necessary medical services provided for each an applicant in a standard or uniform format to the department's or the board's contractor for its utilization management review within ten (10) business days of receiving notification that the patient is not eligible for medicaid county clerk of the obligated county within ten (10) days after receiving a request from the county clerk; provided that, within the ten (10) day period upon a showing of good cause if a provider presents a written request for suspension of the investigation, the time period investigation of the application may shall be extended suspended for up to thirty (30) days. Upon receipt of the requested documentation, the investigation shall resume. A copy of the results of the reviewed billings medical records and medical claims shall be transmitted by the department's or the board's contractor to the clerk of the obligated county. Failure to provide the medical records and medical claims within the initial ten (10) day period and the suspension period, if any, shall result in denial of the application.

SECTION 4. 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 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 ~~county assistance~~ 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 section 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 5. That Section 31-3505A, Idaho Code, be, and the same is hereby amended to read as follows:

31-3505A. INVESTIGATION OF APPLICATION BY THE CLERK. (1) The clerk shall interview the applicant and investigate the information provided on the application, along with all other required information, in accordance with the procedures established by the county commissioners, the board and this chapter. The clerk shall promptly notify the applicant, or third party filing an application on behalf of an applicant, of any material information missing from the application which, if omitted, may cause the application to be denied for incompleteness. In addition, any provider requesting notification shall be notified at the same time. When necessary, such persons as may be deemed essential, may be compelled by the clerk to give testimony and produce documents and other evidence under oath in order to complete the investigation. The clerk is hereby authorized to issue subpoenas to carry out the intent of this provision and to otherwise compel compliance in accordance with provisions of Idaho law.

(2) The applicant and third party filing an application on behalf of an applicant to the extent they have knowledge, shall have a duty to cooperate with the clerk in investigating, providing documentation, submitting to an interview and ascertaining eligibility and shall have a continuing duty to notify the obligated county of the receipt of resources after an application has been filed.

(3) The clerk shall have twenty (20) days to complete the investigation of an application for nonemergency necessary medical services.

(4) The clerk shall have forty-five (45) days to complete the investigation of an application for emergency necessary medical utilization management services or a portion thereof.

(5) In the case of follow-up treatment, the clerk shall have ten (10) days to complete an interview on a request for additional treatment to update the financial and other information contained in a previous application

for an original diagnosis in accordance with a treatment plan previously approved by the county commissioners.

(6) Upon completion of the interview and investigation of the application or request, a statement of the clerk's findings shall be filed with the county commissioners. Such findings of indigency shall start on the date necessary medical services are first provided.

SECTION 6. That Section 31-3508A, Idaho Code, be, and the same is hereby amended to read as follows:

31-3508A. PAYMENT FOR NECESSARY MEDICAL SERVICES BY AN OBLIGATED COUNTY. (1) Upon receipt of a final determination by the county commissioners approving an application for financial assistance under the provisions of this chapter, an applicant, or the third party applicant on behalf of the applicant, shall, within sixty (60) days, submit any remaining medical claims pursuant to the procedures provided in chapter 15, title 31, Idaho Code.

(2) Payment shall be made to hospitals or providers on behalf of an applicant and shall be made on the next payment cycle. In no event shall payment be delayed longer than sixty (60) days from receipt of the county claim.

(3) Payment to a hospital or provider pursuant to this chapter shall be payment of the debt in full and the provider or hospital shall not seek additional funds from the applicant.

(4) Within fourteen (14) days after the county payment, the clerk of the obligated county shall forward to the board any application for financial assistance exceeding, at the reimbursement rate, the total sum of eleven thousand dollars (\$11,000) in the aggregate per resident in any consecutive twelve (12) month period. A copy of the clerk's findings, the final decision of the county commissioners and a statement of which costs the clerk has paid shall be forwarded with the application to the board.

Approved April 9, 2013.

CHAPTER 280  
(H.B. No. 133)

AN ACT

RELATING TO COUNTY RECORDER FEES; AMENDING SECTION 31-3205, IDAHO CODE, TO REVISE FEES THAT MAY BE CHARGED BY A COUNTY RECORDER TO A PARTY PROCURING HIS SERVICES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 31-3205, Idaho Code, be, and the same is hereby amended to read as follows:

31-3205. RECORDER'S FEES. (1) The county recorder is allowed, and may receive for his services, the following fees, to be paid him by the party procuring his services:

- (a) For recording every instrument, paper or notice, for the first page ..... \$10.00
- For each additional page ..... \$ 3.00
- (b) For electronic copies (as defined in subsection (2) of this section) requested on a recurring basis, for each page or image ..... \$ .05
- (c) For copies of any record or paper, for each page ..... \$ 1.00
- (d) For each certificate under seal, when required ..... \$ 1.00



- (e) For release or assignment where more than one (1) document is released or assigned in the same instrument, for each additional release or assignment ..... \$ 1.00
- (f) For recording every town plat or map, for first one hundred (100) lots or less ..... \$11.00  
And for each additional lot ..... \$ .05
- (g) For taking acknowledgments, including seal ..... \$ 1.00
- (h) ~~For recording the location notice or amended location notice, of a mining claim, or for recording and indexing each notice, for each page ..... \$ 3.00~~
- ~~(i) For recording affidavit of labor of mining claims for one (1) mining claim ..... \$ 4.00  
Plus an additional charge for each claim in excess of one (1) .... \$ .50~~
- ~~(j) For filing a survey, for each page ..... \$ 5.00~~
- ~~(k) For making a copy of a survey or highway right-of-way plat .. \$ 4.00~~
- ~~(l) For issuing marriage license, filing, recording and indexing the certificate of marriage and taking and filing affidavits required in issuance of the license ..... \$11.00~~
- ~~(m) For administering an oath, including jurat ..... \$ 1.00  
And certifying the same when required an additional sum of ..... \$ 1.00~~
- ~~(n) For comparing and certifying a prepared copy of a file or record in his office, for each page ..... \$ .50~~
- ~~(o) For each certificate under seal there shall be an additional fee of ..... \$ 1.00~~

(2) Electronic copies shall include copies provided via internet download, on a compact disc, zip disc, floppy disc, or other electronic means. The county recorder shall provide electronic copies if the record is maintained in electronic form and if the person specifically requests an electronic copy.

(3) For duplication of recorded documents in paper, microfilm or microfiche format requested on a recurring basis in excess of one hundred (100) pages, the fee shall be negotiated between the county recorder and the purchaser of records. The fee shall not exceed the costs to the county recorder for the retrieval and duplication of the record. These negotiated fees shall be recommended by the county recorder and approved by the board of county commissioners. Any existing agreements for duplication of paper, microfilm or microfiche documents in excess of one hundred (100) pages are hereby ratified and approved. Any negotiated fees shall remain in effect until such time as either party requests a review of the fee.

(4) All instruments delivered to the county recorder for record shall be recorded rather than filed with the exception of plats, surveys, corner-stone markers and instruments under the Uniform Commercial Code.

(5) For all other services as recorder, not enumerated herein, the fee fixed in the statute requiring the service or the same fee as allowed the clerk of the district court for like service.

(6) A page shall not exceed fourteen (14) inches in length nor eight and one-half (8 1/2) inches in width. Each page shall be typewritten or be in legible writing. The recording fee to be charged for maps, sketches, drawings or other instruments except plats larger than the size permitted above for a page shall be two cents (2¢) per square inch.

Approved April 9, 2013.

## CHAPTER 281

(H.B. No. 142, As Amended in the Senate, As Amended in the Senate)

## AN ACT

RELATING TO DENTISTS; AMENDING SECTION 54-924, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A DENTIST WHO PRACTICES OR REPRESENTS HIMSELF AS PRACTICING DENTISTRY UNDER ANY NAME OTHER THAN HIS OWN TRUE NAME OR UNDER A BUSINESS NAME, TO PROVIDE THAT ENGAGING IN THE PRACTICE OF DENTISTRY AS PART OF A BUSINESS IN WHICH A PERSON NOT DULY LICENSED HOLDS AN OWNERSHIP INTEREST MAY BE SUBJECT TO DISCIPLINE AND TO PROVIDE FOR EXEMPTIONS.

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

SECTION 1. 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 authorized by the provisions of the a professional service corporation act 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 authorized by the provisions of the a professional service corporation act 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 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
- (7) 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
- (8) Engage in unprofessional, unethical or immoral conduct, as defined by board rules; or
- (9) Advertise in such way as to deceive or defraud, or probably deceive or defraud, the public or patrons; or
- (10) 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
- (11) 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
- (12) Violate any other provisions of law or rules adopted by the board; or
- (13) Falsely identify himself to the public as a specialist in a specialty area of dentistry as defined by rule; or
- (14) 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 at 42 U.S.C. section 254b.

Approved April 9, 2013.

CHAPTER 282  
(H.B. No. 150)

AN ACT

RELATING TO COUNTY FINANCES AND CLAIMS AGAINST COUNTY; AMENDING SECTION 31-1506, IDAHO CODE, TO REVISE PROVISIONS RELATING TO JUDICIAL REVIEW OF BOARD DECISIONS.

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

SECTION 1. That Section 31-1506, Idaho Code, be, and the same is hereby amended to read as follows:

31-1506. JUDICIAL REVIEW OF BOARD DECISIONS. (1) Unless otherwise provided by law, judicial review of any final act, order or proceeding of the board as provided in chapter 52, title 67, Idaho Code, shall be initiated by

any person aggrieved thereby within the same time and in the same manner as provided in chapter 52, title 67, Idaho Code, for judicial review of actions.

(2) Venue for judicial review of final board actions shall be in the district court of the county governed by the board.

Approved April 9, 2013.

CHAPTER 283  
(H.B. No. 178)

AN ACT

RELATING TO THE IMMUNIZATION BOARD; AMENDING SECTION 4, CHAPTER 32, LAWS OF 2010, TO EXTEND THE SUNSET DATE.

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

SECTION 1. That Section 4, Chapter 32, Laws of 2010, be, and the same is hereby amended to read as follows:

SECTION 4. The provisions of this Chapter 60, Title 41 shall be null, void and of no force and effect on and after July 1, 20135.

Approved April 9, 2013.

CHAPTER 284  
(H.B. No. 202)

AN ACT

RELATING TO THE IDAHO ADMINISTRATIVE PROCEDURE ACT; AMENDING SECTION 67-5221, IDAHO CODE, TO PROVIDE ADDITIONAL REQUIREMENTS RELATING TO THE PUBLIC NOTICE OF PROPOSED RULEMAKING AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5224, IDAHO CODE, TO PROVIDE ADDITIONAL REQUIREMENTS RELATING TO A NOTICE OF ADOPTION OF A PENDING RULE AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING A SUNSET DATE.

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

SECTION 1. That Section 67-5221, Idaho Code, be, and the same is hereby amended to read as follows:

67-5221. PUBLIC NOTICE OF PROPOSED RULEMAKING. (1) Prior to the adoption, amendment, or repeal of a rule, the agency shall publish notice of proposed rulemaking in the bulletin. The notice of proposed rulemaking shall include:

(a) 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;

(b) A statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;

(c) A Except as otherwise required in paragraph (d) 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 subsection paragraph shall not affect the validity or the enforceability of the rule;

(d) 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;

(e) The text of the proposed rule prepared in legislative format;

(ef) The location, date, and time of any public hearings the agency intends to hold on the proposed rule;

(fg) The manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;

(gh) The manner in which persons may request an opportunity for an oral presentation as provided in section 67-5222, Idaho Code;

(hi) The deadline for public comments on the proposed rule; and

(ij) If negotiated rulemaking was not conducted, an explanation of the agency's determination that negotiated rulemaking was not feasible.

(2) (a) Coinciding with each issue of the bulletin, the coordinator shall cause the publication of an abbreviated notice with a brief description of the subject matter, showing any agency's intent to propose a new or changed rule that is a new addition to that issue of the bulletin. The notice shall be in the form of an official legal notice, as provided for in section 60-105, Idaho Code, and subject to the rates set forth therein.

The notice shall include the agency name and address, rule number, rule subject matter as provided in subsection (1) (b) of this section, and the comment deadline. The notice shall also include a brief statement that informs citizens where they can view the administrative bulletin in electronic form.

(b) The coordinator shall cause the notice required in subsection (2) (a) of this section to be published in at least the accepting newspaper of largest paid circulation that is published in each county in Idaho or, if no newspaper is published in the county, then in an accepting newspaper of largest paid circulation published in Idaho and circulated in the county. The newspaper of largest circulation shall be established by the sworn statement of average annual paid weekday issue circulation that has been filed by a newspaper with the United States post office for the calendar year immediately preceding the calendar year during which the advertisement in this section is required to be published.

(3) Each agency that has a website shall cause the notice required by either subsection (1) or (2) of this section to be placed onto or be accessible from the home page of the agency's website so that interested persons can view it online.

SECTION 2. 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~~ 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~~ 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) a 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~~ 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 ~~subsection~~ 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 3. The provisions of this act shall be null, void and of no force and effect on and after June 30, 2015.

Approved April 9, 2013.

CHAPTER 285  
(H.B. No. 215)

AN ACT

RELATING TO BALLOTS; AMENDING SECTION 34-217, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE RETENTION OF CERTAIN ELECTION SUPPLIES; AMENDING SECTION 34-901, IDAHO CODE, TO REVISE PROVISIONS RELATING TO AN OFFICIAL ELECTION STAMP AND TO ESTABLISH PROVISIONS RELATING TO OFFICIAL ELECTION BALLOT IDENTIFICATION; AMENDING SECTION 34-908, IDAHO CODE, TO REMOVE PROVISIONS RELATING TO A CERTAIN STAMP, TO ESTABLISH PROVISIONS RELATING TO OFFICIAL ELECTION BALLOT IDENTIFICATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-910, IDAHO CODE, TO REMOVE REFERENCE TO A CERTAIN STAMP AND INK PAD, TO ESTABLISH A PROVISION RELATING TO OFFICIAL ELECTION BALLOT IDENTIFICATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-1103, IDAHO CODE, TO REMOVE REFERENCE TO A CERTAIN STAMP AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 34-1106, IDAHO CODE, TO REMOVE PROVISIONS RELATING TO A CERTAIN STAMP AND TO ESTABLISH A PROVISION RELATING TO OFFICIAL ELECTION BALLOT IDENTIFICATION.

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

SECTION 1. That Section 34-217, Idaho Code, be, and the same is hereby amended to read as follows:

34-217. RETENTION OF COUNTY ELECTION RECORDS. County election records shall be maintained by the county clerk for the time periods outlined in this section. Records shall be maintained for the period specified beginning with the date the record is created or has become no longer valid, whichever is greater.

(1) The following records shall be retained for not less than five (5) years:

(a) Voter registration cards for electors whose registration has been terminated.

(b) Combination election record and poll book.

(c) Declaration of candidacy.

(d) Maps of precinct boundaries with legal descriptions.

(e) List of absentee voters.

(2) The following shall be retained for two (2) years:

(a) Correspondence relating to an elector's voter registration.

(b) Completed absentee ballot request forms.

(c) Tally books.

(d) Voted ballots.

(e) Any ballots that were required to be duplicated before being counted.

(3) The following shall be maintained for one (1) year:

- (a) Absentee ballot affidavit envelopes.
- (b) Notice of election.
- (c) Personal identification affidavit.
- (d) Unvoted ballots from the primary election.
- (e) Ballot tracking logs.
- (f) Automated tabulation election logs.
- (g) Copy of the election definition and program used in tabulating ballots electronically and in the ballot marking device.
- (h) Record of the number of ballots printed and furnished to each polling place.

(4) Other election supplies including, but not limited to, unused ballots, official election stamps ballot identification and spoiled ballots may be disposed of sixty (60) days following the deadline for requesting a recount or filing an election contest pursuant to chapters 20 and 21, title 34, Idaho Code.

SECTION 2. That Section 34-901, Idaho Code, be, and the same is hereby amended to read as follows:

34-901. OFFICIAL ELECTION STAMP BALLOT IDENTIFICATION. (1) The county clerk shall provide ~~for an~~ that all election ballots are identified as official election stamp of such character or device, and of such material as the board of county commissioners may select. Each stamp ballot shall have upon its face the date and year of the election in which it is used and the words "Official Election Ballot."

(2) The clerk in a county that utilizes optical scan ballots shall ensure that:

- (a) The official election ballot identification is printed on each ballot issued; and
- (b) Each ballot contains a unique marking to prevent duplication of official election ballots.

(3) The clerk in a county that utilizes paper or other ballots shall provide an official election stamp of such character or device and of such material as the board of county commissioners may select. In the event such stamp is lost, destroyed or unavailable upon election day, the distributing clerk shall initial each ballot and write "stamped" upon the ballot in the appropriate place.

SECTION 3. That Section 34-908, Idaho Code, be, and the same is hereby amended to read as follows:

34-908. EACH BALLOT TO CARRY OFFICIAL ELECTION STAMP BALLOT IDENTIFICATION ON OUTSIDE -- MARKING OF BALLOT BY VOTER. (1) Every ballot used at any primary, general or special election shall be ~~stamped~~ marked on the outside with the official election ~~stamp~~ ballot identification before it is given to the voter. At this time the election official distributing the ballots shall give the voter instructions in regard to folding the ballot after he has voted.

(2) The voter shall mark his ballot with a cross (X) or other mark sufficient to show his intent in the place provided after the name of the candidate for whom he intends to vote for each office.

(3) If a person votes by writing the name of a candidate on the ballot, such act shall constitute a vote for the person's name who appears without the necessity of placing a mark after the name written on the ballot, unless such a mark is required by a vote tally system.

SECTION 4. That Section 34-910, Idaho Code, be, and the same is hereby amended to read as follows:



34-910. DUTY OF COUNTY CLERK TO FURNISH SUFFICIENT BALLOTS TO EACH VOTING PRECINCT -- RECORD OF NUMBER OF BALLOTS PRINTED AND FURNISHED. (1) It shall be the duty of the county clerk to furnish and cause to be delivered a sufficient number of election ballots to the judges of elections of each voting precinct. The ballots shall be delivered to the polling place within the precinct on or before the opening of the polls for the election together with the official ~~stamp and ink pad~~ election ballot identification in sealed packages. Upon receipt of the ballots and supplies, the chief judge of elections or other designated judge must return a written receipt to the county clerk.

(2) The county clerk shall keep a record of the number of ballots printed and furnished to each polling place within the county and preserve the same for one (1) year.

SECTION 5. That Section 34-1103, Idaho Code, be, and the same is hereby amended to read as follows:

34-1103. OPENING BALLOT BOXES. (1) In the presence of bystanders the judges of elections shall break the sealed packages of election ballots, ~~official stamp~~ and other supplies.

(2) Before receiving any ballots the judges shall open and exhibit, close and lock the ballot boxes, and thereafter they shall not be removed from the polling place until all ballots are counted. They shall not be opened until the polls are closed unless the precinct is using a duplicate set of ballot boxes.

SECTION 6. That Section 34-1106, Idaho Code, be, and the same is hereby amended to read as follows:

34-1106. SIGNING COMBINATION ELECTION RECORD AND POLL BOOK -- DELIVERY OF BALLOT TO ELECTOR. (1) An elector desiring to vote shall state his name and address to the judge or clerk in charge of the combination election record and poll book.

(2) Before receiving his ballot, each elector shall sign his name in the combination election record and poll book following his name therein and show a valid photo identification as provided for in section 34-1113, Idaho Code, or personal identification affidavit as provided for in section 34-1114, Idaho Code.

(3) No person shall knowingly sign his name in the combination election record and poll book if his residence address is not within that precinct at the time of signing.

(4) If the residence address of a person contained in the combination election record and poll book is incorrectly given due to an error in preparation of the combination election record and poll book, the judge shall ascertain the correct address and make the necessary correction.

(5) The elector shall then be given the appropriate ballots which have been ~~stamped~~ marked with the official election ~~stamp~~ ballot identification and shall be given folding instructions for such ballots.

Approved April 9, 2013.

CHAPTER 286  
(H.B. No. 241)

AN ACT

RELATING TO SCRAP DEALERS; AMENDING SECTION 54-2701, IDAHO CODE, TO REVISE THE DEFINITION OF NONFERROUS METAL PROPERTY; AMENDING SECTION 54-2702, IDAHO CODE, TO REVISE PROVISIONS OF RECORDS REQUIRED FOR PURCHASING NONFERROUS OR STAINLESS STEEL METAL PROPERTY FROM THE GENERAL PUBLIC TO INCLUDE CERTAIN PHOTOGRAPHS OR DIGITAL RECORDINGS; AMENDING SECTION 54-2707, IDAHO CODE, TO PROVIDE THAT CERTAIN METAL THEFTS ARE FELONIES AND TO PROVIDE LIABILITY PROTECTIONS FOR OWNERS OF METAL PROPERTY.

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

SECTION 1. That Section 54-2701, Idaho Code, be, and the same is hereby amended to read as follows:

54-2701. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commercial account" means a relationship between a scrap metal business and a commercial enterprise that is ongoing and properly documented under this chapter.

(2) "Commercial enterprise" means a corporation, partnership, limited liability company, association, state agency, political subdivision of the state, public corporation, or any other legal or commercial entity.

(3) "Commercial metal property" means: Utility access covers; street light poles and fixtures; road and bridge guardrails; highway or street signs; water meter covers; traffic directional and control signs; traffic light signals; any metal property marked with the name of a commercial enterprise, including, but not limited to, a telephone, cable, electric, water, natural gas, or other utility, or railroad; building construction materials consisting of copper pipe, tubing, or wiring, or aluminum wire, siding, downspouts, or gutters; aluminum or stainless steel fence panels; aluminum decking, bleachers, or risers; historical markers; statue plaques; grave markers and funeral vases; or agricultural irrigation wheels, sprinkler heads, and pipes; or stainless steel designed to be used in agricultural or commercial businesses.

(4) "Nonferrous metal property" means metal property for which the value of the metal property is derived from the property's content of copper, brass, aluminum, bronze, lead, zinc, nickel, gold, silver, platinum and their alloys, but shall not include aluminum beverage containers, used beverage containers or similar beverage containers; however, the term includes stainless steel beer kegs.

(5) "Record" means a paper, electronic, or other method of storing information.

(6) "Scrap metal business" means a scrap metal supplier, scrap metal recycling center, and scrap metal processor.

(7) "Scrap metal processor" means a person with a current business license that conducts business from a permanent location, that is engaged in the business of purchasing or receiving metal property for the purpose of altering the metal in preparation for its use as feedstock in the manufacture of new products, and that maintains a hydraulic bailer, shearing device, or shredding device for recycling.

(8) "Scrap metal recycling center" means a person with a current business license that is engaged in the business of purchasing or receiving nonferrous metal property for the purpose of aggregation and sale to another scrap metal business and that maintains a fixed place of business within the state.

(9) "Scrap metal supplier" means a person that is engaged in the business of purchasing or receiving nonferrous metal property for the purpose of aggregation and sale to a scrap metal recycling center or scrap metal processor and that does not maintain a fixed business location in the state.

(10) "Transaction" means a pledge, or the purchase of, or the trade of any item of nonferrous metal property by a scrap metal business from a member of the general public. "Transaction" does not include donations or the purchase or receipt of nonferrous metal property by a scrap metal business from a commercial enterprise, from another scrap metal business, or from a duly authorized employee or agent of the commercial enterprise or scrap metal business.

SECTION 2. That Section 54-2702, Idaho Code, be, and the same is hereby amended to read as follows:

54-2702. RECORDS REQUIRED FOR PURCHASING NONFERROUS OR STAINLESS STEEL METAL PROPERTY FROM THE GENERAL PUBLIC. (1) At the time of a transaction, every scrap metal business doing business in this state shall produce, wherever that business is conducted, an accurate and legible record of each transaction involving nonferrous metal property or stainless steel metal property and the photographs required in subsection (3) of this section. This record must be written in the English language, documented on a standardized form or in electronic form, and contain the following information:

- (a) The signature of the person with whom the transaction is made;
- (b) The date, location and value of the transaction;
- (c) The name of the employee representing the scrap metal business in the transaction;
- (d) The name and street address of the person with whom the transaction is made;
- (e) A photocopy or digital image of a current driver's license that is valid to operate a motor vehicle in the state of Idaho or a United States or Idaho government-issued picture identification of the seller; and
- (f) The license plate number of any vehicle required to have such a plate, if any, used by the person with whom the transaction is made.

(2) For every transaction that involves nonferrous or stainless steel metal property, every scrap metal business doing business in the state shall require the person with whom a transaction is being made to sign a declaration.

The declaration may be included as part of the transactional record required under subsection (1) of this section, or on a receipt for the transaction. The declaration must state substantially the following: "I, the undersigned, affirm under penalty of law that the property that is subject to this transaction is not to the best of my knowledge stolen property."

The declaration must be signed and dated and the time of day noted by the person with whom the transaction is being made. An employee of the scrap metal business must witness the signing and dating of the declaration and sign the declaration accordingly before any transaction may be consummated.

(3) For every transaction that involves nonferrous or stainless steel metal property purchased from the general public, every scrap metal business doing business in the state shall create a photographic or digital image of the following, or may create a digital video record of no less than thirty (30) seconds in total length of the following:

- (a) Each of the individuals with whom the transaction is being made, to include the face, head and shoulders;
- (b) The vehicle used by the person(s) with whom the transaction is being made with the property involved in the transaction clearly visible;
- (c) The vehicle used by the person(s) with whom the transaction is being made with the license plate number clearly visible;

(d) The property involved in the transaction that allows for the property to be identified; and

(e) The provisions of this subsection shall not apply upon and after the fourth purchase from the same member of the general public to the same scrap metal business within one (1) year.

SECTION 3. That Section 54-2707, Idaho Code, be, and the same is hereby amended to read as follows:

54-2707. UNLAWFUL VIOLATIONS AND LIABILITY. (1) It is a misdemeanor for:

(1a) Any person to deliberately remove, alter, or obliterate any manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of nonferrous metal property or commercial metal property in order to deceive a scrap metal business;

(2b) Any person to knowingly make, cause, or allow to be made any false entry or misstatement of any material matter in any book, record, or writing required to be kept under this chapter;

(3c) Any person to sign the declaration required under this chapter knowing that the nonferrous metal property subject to the transaction is stolen;

(4d) Any scrap metal business to possess commercial metal property that was not lawfully purchased or received under the requirements of this chapter;

(5e) Any scrap metal business to engage in a series of transactions valued at less than twenty dollars (\$20.00) with the same seller for the purposes of avoiding the requirements of this chapter; or

(6f) Any person to intentionally violate the provisions of section 54-2703, Idaho Code.

(72) Any person who has pled guilty to or been found guilty of violating the provisions of this section for a second time within five (5) years is guilty of a felony.

(3) A person who knowingly and intentionally takes copper or other nonferrous metals from an electrical substation without authorization of the utility, or who knowingly and intentionally takes copper or other nonferrous metals from a utility or communications services provider, thereby causing damage to the facilities of a utility or communications services provider, or interfering with the ability of a utility or communications services provider to provide service, is guilty of a felony.

(4) (a) A public or private owner of metal property is not civilly liable to a person who is injured during the theft or attempted theft of metal property.

(b) A public or private owner of metal property is not civilly liable to a person for injuries caused by a dangerous condition created as a result of the theft or attempted theft of the owner's metal property when the owner did not know, and could not have reasonably known, of the dangerous condition.

This section does not create or impose a duty of care upon an owner of metal property that would not otherwise exist under common law.

Approved April 9, 2013.

CHAPTER 287  
(H.B. No. 256)

AN ACT

RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1602, IDAHO CODE, TO DEFINE A TERM AND TO REVISE DEFINITIONS; AMENDING SECTION 16-1610, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO A CERTAIN PETITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1619, IDAHO CODE, TO PROVIDE THAT UPON ENTERING A CERTAIN DECREE, THE COURT SHALL PLACE A CHILD UNDER THE PROTECTIVE SUPERVISION OF THE DEPARTMENT OF HEALTH AND WELFARE AND TO REVISE PROVISIONS RELATING TO CERTAIN WRITTEN FINDINGS REQUIRED OF THE COURT; AMENDING SECTION 16-1620, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO A FINDING OF AGGRAVATED CIRCUMSTANCES AND TO REVISE PROVISIONS RELATING TO A PERMANENCY PLAN AND HEARING; AMENDING SECTION 16-1621, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CASE PLAN HEARINGS AND TO ESTABLISH PROVISIONS RELATING TO NO FINDING OF AGGRAVATED CIRCUMSTANCES; AMENDING SECTION 16-1622, IDAHO CODE, TO REVISE PROVISIONS RELATING TO REVIEW HEARINGS AND TO ESTABLISH PROVISIONS RELATING TO ANNUAL PERMANENCY HEARINGS; AMENDING SECTION 16-1623, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE TIME WITHIN WHICH A CERTAIN HEARING MUST BE HELD; AMENDING SECTION 16-1624, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE TERMINATION OF A PARENT-CHILD RELATIONSHIP, TO PROVIDE THAT A CERTAIN PETITION SHALL BE FILED WITHIN A CERTAIN TIME FRAME AND TO PROVIDE THAT THE COURT MAY AUTHORIZE THE DEPARTMENT OF HEALTH AND WELFARE TO SUSPEND FURTHER EFFORTS TO REUNIFY A CHILD WITH THE CHILD'S PARENT UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTION 16-1625, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO A PARENT SUBJECTING A CHILD TO AGGRAVATED CIRCUMSTANCES AND TO REMOVE A CODE REFERENCE; AMENDING SECTION 16-1629, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN POWERS AND DUTIES OF THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 16-2002, IDAHO CODE, TO REVISE A DEFINITION; AND AMENDING SECTION 16-2005, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE COURT'S AUTHORITY TO REBUTTABLY PRESUME THAT TERMINATION OF PARENTAL RIGHTS IS IN THE BEST INTERESTS OF THE CHILD.

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 rela-

tionship 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;

~~(c) Whether aggravated circumstances as defined in section 16-1619, Idaho Code, exist.~~

(5) "Aggravated circumstances" include, but are 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.

(67) "Case plan hearing" means a hearing to:

~~(a) Review, approve, modify or reject the case plan; and~~

~~(b) Review reasonable efforts being made to rehabilitate the family; and~~

~~(c) Review reasonable efforts being made to reunify the children with a parent or guardian approve, modify or reject the case plan as provided in section 16-1621, Idaho Code.~~

(78) "Child" means an individual who is under the age of eighteen (18) years.

(89) "Circumstances of the child" includes, but is not limited to, the joint legal custody or joint physical custody of the child.

(910) "Commit" means to transfer legal and physical custody.

(101) "Concurrent planning" means a planning model that prepares for and implements different outcomes at the same time.

(112) "Court" means district court or magistrate's division thereof, or if the context requires, a magistrate or judge thereof.

(123) "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.

(134) "Department" means the department of health and welfare and its authorized representatives.

(145) "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.

(156) "Family or household member" shall have the same meaning as in section 39-6303(6), Idaho Code.

(167) "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.

(178) "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.

(189) "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.

(1920) "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.

(201) "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.

(212) "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.

(223) "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.

(234) "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.

(245) "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.

(256) "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.

(267) "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.

(278) "Permanency plan" means a plan for a continuous residence and maintenance of nurturing relationships during the child's minority.

(289) "Protective order" means an order created issued by the court granting relief as delineated in section 39-6306, Idaho Code, and 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 herein. Failure to comply with the order shall be a misdemeanor in the order.

(2930) "Protective supervision" means is a legal status created by court order in neglect and abuse cases a child protective case whereby the child is permitted to remain in his home under in the legal custody of his or her parent(s), guardian(s) or other legal custodian(s), subject to supervision by the department.

(301) "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.

(312) "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.

(323) "Shelter care" means places designated by the department for temporary care of children pending court disposition or placement.

(334) "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 16-1610, Idaho Code, be, and the same is hereby amended to read as follows:

16-1610. PETITION. (1) A petition invoking the jurisdiction of the court under this chapter shall be filed in the manner provided in this section:

(a) A petition must be signed by the prosecutor or deputy attorney general before being filed with the court.

(b) Any person or governmental body of this state having evidence of abuse, abandonment, neglect or homelessness of a child may request the attorney general or prosecuting attorney to file a petition. The prosecuting attorney or the attorney general may file a petition on behalf of any child whose parent, guardian, or custodian has been accused in a criminal complaint of the crime of cruel treatment or neglect as defined in section 18-1501, Idaho Code.

(2) Petitions shall be entitled "In the Matter of . . . . ., a child under the age of eighteen (18) years" and shall be verified and set forth with specificity:

(a) The facts which bring the child within the jurisdiction of the court upon the grounds set forth in section 16-1603, Idaho Code, with the actions of each parent described therein;

(b) The name, ~~birthdate~~ birth date, sex, and residence address of the child;

(c) The name, ~~birthdate~~ birth date, sex, and residence address of all other children living at or having custodial visitation at the home where the injury to the subject child occurred;

(d) The names and residence addresses of both the mother and father, guardian or other custodian. If neither of his parents, guardian or other custodian resides or can be found within the state, or if their residence addresses are unknown, the name of any known adult relative residing within the state;

(e) The names and residence addresses of each person having sole or joint legal custody of the children described in this section;

(f) Whether or not there exists a legal document including, but not limited to, a divorce decree, stipulation or parenting agreement controlling the custodial status of the children described in this section;

(g) Whether the child is in shelter care, and, if so, the type and nature of the shelter care, the circumstances necessitating such care and the date and time he was placed in such care;

(h) When any of the facts required by this section cannot be determined, the petition shall so state. The petition may be based on information and belief but in such case the petition shall state the basis of such information and belief;

(i) If the child has been or will be removed from the home, the petition shall state that:

(i) Remaining in the home was contrary to the welfare of the child; and

(ii) Vesting legal custody of the child in the department or other authorized agency is in the best interests of the child; and

(iii) Reasonable efforts have been made prior to the placement of the child in care to prevent the removal of the child from his home or, if such efforts were not provided, that reasonable efforts to prevent placement were not required as ~~the parent subjected the child to because~~ aggravated circumstances were found;

(j) The petition shall state with specificity whether a parent with joint legal custody or a noncustodial parent has been notified of placement;

(k) The petition shall state whether a court has adjudicated the custodial rights of the parents and shall set forth the custodial status of the child;

(l) The court may combine petitions and hearings where multiple petitions have been filed involving related children, parents or guardians.

SECTION 3. That Section 16-1619, Idaho Code, be, and the same is hereby amended to read as follows:

16-1619. ADJUDICATORY HEARING -- CONDUCT OF HEARING -- CONSOLIDATION. (1) When a petition has been filed, the court shall set an adjudicatory hearing to be held no later than thirty (30) days after the filing of the petition.

(2) A pretrial conference shall be held outside the presence of the court within three (3) to five (5) days before the adjudicatory hearing. Investigative reports required under section 16-1616, Idaho Code, shall be delivered to the court with copies to each of the parents and other legal custodians, guardian ad litem and attorney for the child prior to the pretrial conference.

(3) At the adjudicatory hearing, parents or guardians with disabilities shall have the right to introduce admissible evidence regarding how use of adaptive equipment or supportive services may enable the parent or guardian to carry out the responsibilities of parenting the child by addressing the reason for the removal of the child.

(4) If a preponderance of the evidence at the adjudicatory hearing shows that the child comes within the court's jurisdiction under this chapter upon the grounds set forth in section 16-1603, Idaho Code, the court shall so decree and in its decree shall make a finding on the record of the facts and conclusions of law upon which it exercises jurisdiction over the child.

(5) Upon entering its decree the court shall consider any information relevant to the disposition of the child but in any event shall:

(a) Place the child under the protective supervision in his own home of the department for an indeterminate period not to exceed the child's eighteenth birthday; or

(b) Vest legal custody in the department or other authorized agency subject to residual parental rights and subject to full judicial review by the court of all matters relating to the custody of the child by the department or other authorized agency.

(6) If the court vests legal custody in the department or other authorized agency, the court shall make detailed written findings based on facts in the record, that, in addition to the findings required in subsection (4) of this section, continuation of residence in the home would be contrary to the welfare of the child and that vesting legal custody with the department or other authorized agency would be in the best interests of the child. In addition the court shall make detailed written findings based on facts in the record as to whether the department made reasonable efforts to prevent the placement of the child in foster care, including findings, when appropriate, that:

(a) Reasonable efforts were made but were not successful in eliminating the need for foster care placement of the child;

(b) The department made reasonable efforts to prevent removal but was not able to safely provide preventive services;

(c) Reasonable efforts to temporarily place the child with related persons were made but were not successful; or

(d) Reasonable efforts were not required as the parent had subjected the child to aggravated circumstances as determined by the court including, but not limited to: abandonment; torture; chronic abuse; sexual abuse; committed murder; committed voluntary manslaughter of

~~another child; aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; committed a battery or an injury to a child that results in serious or great bodily injury to a child; or the parental rights of the parent to a sibling of the child have been terminated involuntarily and that as a result, a hearing to determine the permanent future plan for this child will be held within thirty (30) days of this determination to reunify the child with one (1) or both parents were not required because aggravated circumstances were present. If aggravated circumstances are found, a permanency hearing for the child shall be held within thirty (30) days of the determination of aggravated circumstances.~~

(7) A decree vesting legal custody in the department shall be binding upon the department and may continue until the child's eighteenth birthday.

(8) A decree vesting legal custody in an authorized agency other than the department shall be for a period of time not to exceed the child's eighteenth birthday, and on such other terms as the court shall state in its decree to be in the best interests of the child and which the court finds to be acceptable to such authorized agency.

(9) In order to preserve the unity of the family system and to ensure the best interests of the child whether issuing an order of protective supervision or an order of legal custody, the court may consider extending or initiating a protective order as part of the decree. The protective order shall be determined as in the best interests of the child and upon a showing of continuing danger to the child. The conditions and terms of the protective order shall be clearly stated in the decree.

(10) If the court does not find that the child comes within the jurisdiction of this chapter pursuant to subsection (4) of this section it shall dismiss the petition.

SECTION 4. That Section 16-1620, Idaho Code, be, and the same is hereby amended to read as follows:

16-1620. FINDING OF AGGRAVATED CIRCUMSTANCES -- PERMANENCY PLAN -- HEARING. (1) After a judicial determination that reasonable efforts to return the child to his home are not required because ~~the parent has subjected the child to aggravated circumstances as set forth in section 16-1619(6) (d), Idaho Code, the department shall prepare a permanency plan. The plan shall set forth reasonable efforts to place the child for adoption, with a legal guardian, or in another approved permanent placement were found to be present, the court shall hold a permanency hearing within thirty (30) days after the finding. The department shall prepare a permanency plan and file the permanency plan with the court at least five (5) days prior to the permanency hearing. If the permanency plan has a goal of termination of parental rights and adoption, the department shall file the petition to terminate as required in section 16-1624(2), Idaho Code. Copies of the permanency plan shall be delivered to the parents and other legal guardians, prosecuting attorney or deputy attorney general, the guardian ad litem and attorney for the child.~~

(2) ~~Notice of the permanency hearing shall be provided to the parents, legal guardians, guardians ad litem and foster parents, provided however, that foster parents are not thereby made parties to the child protective act-action~~ The permanency plan shall have a permanency goal of termination of parental rights and adoption, guardianship or another planned permanent living arrangement and shall set forth the reasonable efforts necessary to finalize the permanency goal.

(3) ~~When it is in the child's best interests, the child's connections to the community, including individuals with a significant relationship to the child, religious organizations and community activities, will be maintained~~

throughout the transition. The plan shall state with specificity the role of the department toward each parent. The permanency plan shall also:

(a) Identify the services to be provided to the child, including services to identify and meet any special educational, emotional, physical or developmental needs the child may have, to assist the child in adjusting to the placement or to ensure the stability of the placement;

(b) Address all options for permanent placement of the child, including consideration of options for in-state and out-of-state placement of the child;

(c) Address the advantages and disadvantages of each option and include a recommendation as to which option is in the child's best interest;

(d) Specifically identify the actions necessary to implement the recommended option;

(e) Specifically set forth a schedule for accomplishing the actions necessary to implement the permanency goal;

(f) Consider the options for maintaining the child's connection to the community, including individuals with a significant relationship to the child, and organizations or community activities with which the child has a significant connection; and

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

(4) The court shall hold a permanency hearing to determine whether the best interest of the child is served by adopting, rejecting or modifying the permanency plan proposed by the department.

(5) Notice of the permanency hearing shall be provided to the parents and other legal guardians, prosecuting attorney or deputy attorney general, guardian ad litem, attorney for the child, the department and foster parents; provided however, that foster parents are not thereby made parties to the child protective act action.

(6) The permanency plan as approved by the court shall be entered into the record as an order of the court. The order may include interim and final deadlines for implementing the permanency plan and finalizing the permanency goal.

(7) If the permanency goal is not termination of parental rights and adoption or guardianship, the court may approve a permanency plan with a permanency goal of another planned permanent living arrangement only upon written case-specific findings that specify why a more permanent plan is not in the best interest of the child.

(8) 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 petition or other motion is filed in a child protection proceeding seeking a determination of the court that aggravated circumstances were present.

SECTION 5. That Section 16-1621, Idaho Code, be, and the same is hereby amended to read as follows:

16-1621. CASE PLAN HEARING -- NO FINDING OF AGGRAVATED CIRCUMSTANCES. (1) The department shall prepare a written case plan iIn every case in which the child is determined to be within the jurisdiction of the court, and there is no judicial determination that aggravated circumstances were present, the department shall prepare a written case plan, including cases in which the parent(s) is incarcerated. The case plan shall be filed with the court no later than sixty (60) days from the date the child was removed from the home or The court shall schedule a case plan hearing to be held within thirty (30) days after the adjudicatory hearing, whichever occurs first. The case plan shall be filed with the court no later than five (5) days prior to the case plan hearing. Copies of the case plan shall be delivered

to the parents and other legal guardians, the prosecuting attorney or deputy attorney general, the guardian ad litem and attorney for the child. Within five (5) days of filing the plan, the court shall hold a planning hearing to determine whether to adopt, reject or modify the case plan proposed by the department The court shall hold a case plan hearing to determine whether the best interest of the child is served by adopting, rejecting or modifying the case plan proposed by the department.

(2) Notice of the case plan hearing shall be provided to the parents, and other legal guardians, the prosecuting attorney or deputing attorney general, guardians ad litem, attorney for the child, the department and foster parents. Although foster parents are provided notice of this hearing, they are not parties to the child protective act action.

(3) The case plan shall set forth reasonable efforts which will be made to make it possible for the child to return to his home and shall concurrently include a plan setting forth reasonable efforts to place the child for adoption, with a legal guardian, or in another approved permanent placement. Whenever possible, the child's connections to the community, including individuals with a significant relationship to the child, religious organizations and community activities, will be maintained through the transition. The plan shall state with specificity the role of the department toward each parent If the child is placed in the legal custody of the department, the case plan filed by the department shall set forth reasonable efforts that will be made to make it possible for the child to return home. The case plan shall also:

(a) Identify the services to be provided to the child, including services to identify and meet any special educational, emotional, physical or developmental needs the child may have, to assist the child in adjusting to the placement or to ensure the stability of the placement.

(b) Address options for maintaining the child's connection to the community, including individuals with a significant relationship to the child, and organizations or community activities with which the child has a significant connection.

(c) Include a goal of reunification and a plan for achieving that goal. The reunification plan shall identify all issues that need to be addressed before the child can safely be returned home without department supervision. The court may specifically identify issues to be addressed by the plan. The reunification plan shall specifically identify the tasks to be completed by the department, each parent or others to address each issue, including services to be made available by the department to the parents and in which the parents are required to participate, and deadlines for completion of each task. The case plan shall state with specificity the role of the department toward each parent. When appropriate, the reunification plan should identify terms for visitation, supervision of visitation and child support.

(d) Include a concurrent permanency goal and a plan for achieving that goal. The concurrent permanency goal may be one (1) of the following: termination of parental rights and adoption, guardianship or another planned permanent living arrangement. The concurrent plan shall:

(i) Address all options for permanent placement of the child, including consideration of options for in-state and out-of-state placement of the child;

(ii) Address the advantages and disadvantages of each option and include a recommendation as to which option is in the child's best interest;

(iii) Specifically identify the actions necessary to implement the recommended option;

(iv) Specifically set forth a schedule for accomplishing the actions necessary to implement the concurrent permanency goal;

(v) Address options for maintaining the child's connection to the community, including individuals with a significant relationship to the child, and organizations or community activities with which the child has a significant connection;

(vi) In the case of a child who has attained the age of sixteen (16) years, include the services needed to assist the child to make the transition from foster care to independent living; and

(vii) Identify further investigation necessary to identify or assess other options for permanent placement, to identify actions necessary to implement the recommended placement or to identify options for maintaining the child's significant connections.

(4) The If the child has been placed under protective supervision of the department, the case plan, as approved by the court filed by the department, shall be entered into the record as an order of the court. In the absence of a finding of aggravated circumstances as provided for in section 16-1619(6) (d), Idaho Code, the court's order shall provide that reasonable efforts shall be made to reunify the family in a timely manner in accordance with the case plan or in the alternative to complete the steps necessary to finalize the permanent placement of the child:

(a) Identify the services to be provided to the child, including services to identify and meet any special educational, emotional, physical or developmental needs the child may have, to assist the child in adjusting to the placement or to ensure the stability of the placement. The plan shall also address options for maintaining the child's connection to the community, including individuals with a significant relationship to the child, and organizations or community activities with which the child has a significant connection.

(b) Identify all issues that need to be addressed to allow the child to remain at home without department supervision. The court may specifically identify issues to be addressed by the plan. The case plan shall specifically identify the tasks to be completed by the department, the parents or others to address each issue, including services to be made available by the department to the parents and in which the parents are required to participate, and deadlines for completion of each task. The plan shall state with specificity the role of the department toward each parent.

(5) The case plan, as approved by the court, shall be entered into the record as an order of the court. The order may include interim and final deadlines for implementing the case plan and finalizing the permanency goal. The court's order shall provide that reasonable efforts shall be made to reunify the family in a timely manner in accordance with the case plan. Unless the child has been placed under the protective supervision of the department, the court's order shall also require the department to simultaneously take steps to accomplish the goal of reunification and the concurrent permanency goal.

SECTION 6. That Section 16-1622, Idaho Code, be, and the same is hereby amended to read as follows:

16-1622. REVIEW AND 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. All persons required to be summoned or notified of the original petition pursuant to section 16-1611, Idaho Code, shall be served with notice of a motion for review of a child's case. 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.

(2c) If the motion filed under subsection paragraph (1b) 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.

(3d) 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 the act, and every six (6) months thereafter, so long as the child is in the custody of the department or authorized agency. 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)(b), 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)(c), Idaho Code. The court may approve a permanency plan which includes a primary goal and a concurrent goal.

(4b) A permanency hearing shall be held to review the permanency plan of the department prior to 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 review, approve, reject or modify the permanency plan of the department and review progress in accomplishing the permanency plan goal. This A permanency hearing may be held at any time and may be combined with the review hearing required under subsection (31) of this section.

(5c) The court shall make written case-specific findings whether the department made reasonable efforts to finalize a the primary permanency plan 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.

~~(6) 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.~~

~~(7) The department or any party may move the court requesting relief from the duty imposed on the department pursuant to the provisions of section 16-1629(9), Idaho Code, that it seek termination of parental rights. The court may grant the department's motion if it appears based on compelling reasons in the record that the presumption has been rebutted~~

(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.

SECTION 7. That Section 16-1623, Idaho Code, be, and the same is hereby amended to read as follows:

16-1623. AMENDED DISPOSITION -- REMOVAL DURING PROTECTIVE SUPERVISION. (1) Where the child has been placed under the protective supervision of the department pursuant to section 16-1619, Idaho Code, the child may be removed from his or her home under the following circumstances:

(a) A peace officer may remove the child where the child is endangered in his surroundings and prompt removal is necessary to prevent serious physical or mental injury to the child; or

(b) The court has ordered, based upon facts presented to the court, that the child should be removed from his or her present conditions or surroundings because continuation in such conditions or surroundings would be contrary to the welfare of the child and vesting legal custody in the department or other authorized agency would be in the child's best interests.

(2) Upon removal, the child shall be taken to a place of shelter care.

(3) When a child under protective supervision is removed from his home, a hearing shall be held within forty-eight (48) hours of the child's removal from the home, except for Saturdays, Sundays and holidays. At the hearing, the court shall determine whether to vest legal custody in the department or other authorized agency pursuant to section 16-1619(5) (b), Idaho Code.



(4) In determining whether to vest legal custody in the department or other authorized agency, the court shall consider any information relevant to the redistribution of the child, and in any event shall make detailed written findings based upon facts in the record as required by section 16-1619(6), Idaho Code.

(5) An order vesting legal custody with the department or other authorized agency under this section shall be treated for all purposes as if such an order had been part of the court's original decree under section 16-1619, Idaho Code. The department shall prepare a written case plan and the court shall hold a case plan hearing within thirty (30) days pursuant to section 16-1621, Idaho Code.

(6) Each of the parents or legal guardians from whom the child was removed shall be given notice of the redistribution hearing in the same time and manner as required for notice of a shelter care hearing under section 16-1615(2) and (3), Idaho Code.

(7) The redistribution hearing may be continued for a reasonable time upon the request of the parties.

SECTION 8. That Section 16-1624, Idaho Code, be, and the same is hereby amended to read as follows:

16-1624. TERMINATION OF PARENT-CHILD RELATIONSHIP. (1) If the child has been placed in the legal custody of the department or under its protective supervision pursuant to section 16-1619, Idaho Code, the department may petition the court for termination of the parent and child relationship in accordance with chapter 20, title 16, Idaho Code. A petition to terminate parental rights shall be filed in the child protective act case.

(2) A petition to terminate parental rights shall be filed within thirty (30) days of an order approving a permanency plan with a permanency goal of termination of parental rights and adoption.

(3) Unless there are compelling reasons it would not be in the best interest of the child, the department shall be required to file a petition to terminate parental rights within ~~sixty~~ thirty (630) days of a judicial determination that an infant has been abandoned or that reasonable efforts are not required because ~~the parent has subjected the child to aggravated circumstances as determined by the court pursuant to section 16-1619(6)(d), Idaho Code were present.~~

(4) The department shall join as a party to the petition if such a petition to terminate is filed by another party; as well as to concurrently identify, recruit, process and approve a qualified family for adoption unless it is determined that such actions would not be in the best interest of the child, or the child is placed with a fit and willing relative.

(5) If termination of parental rights is granted and the child is placed in the guardianship or legal custody of the department, ~~of health and welfare~~ the court, upon petition, shall conduct a hearing as to the future status of the child within twelve (12) months of the order of termination of parental rights, and every twelve (12) months subsequently until the child is adopted or is in a placement sanctioned by the court. ~~A petition to terminate parental rights shall be filed in the child protective act case.~~

(6) 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 petition to terminate parental rights has been filed with regard to the child.

SECTION 9. That Section 16-1625, Idaho Code, be, and the same is hereby amended to read as follows:

16-1625. APPEAL -- EFFECT ON CUSTODY. (1) An aggrieved party may appeal the following orders or decrees of the court to the district court, or

may seek a direct permissive appeal to the supreme court as provided by rules adopted by the supreme court:

- (a) An adjudicatory decree entered pursuant to section 16-1619, Idaho Code;
- (b) Any order subsequent to the adjudicatory decree that vests legal custody of the child in the department or other authorized agency;
- (c) Any order subsequent to the adjudicatory decree that authorizes or mandates the department to cease reasonable efforts to make it possible to return the child to his home, including an order finding ~~that the parent subjected the child to aggravated circumstances as set forth in section 16-1619(6) (d)~~, Idaho Code; or
- (d) An order of dismissal.

(2) Where the order affects the custody of a child, the appeal shall be heard at the earliest practicable time. The pendency of an appeal shall not suspend the order of the court regarding a child, and it shall not discharge the child from the legal custody of the authorized agency to whose care he has been committed, unless otherwise ordered by the district court. No bond or undertaking shall be required of any party appealing to the district court under the provisions of this section. Any final order or judgment of the district court shall be appealable to the supreme court of the state of Idaho in the same manner as appeals in other civil actions. The filing of the notice of appeal shall not, unless otherwise ordered, stay the order of the district court.

SECTION 10. That Section 16-1629, Idaho Code, be, and the same is hereby amended to read as follows:

16-1629. POWERS AND DUTIES OF THE DEPARTMENT. The department, working in conjunction with the court and other public and private agencies and persons, shall have the primary responsibility to implement the purpose of this chapter. To this end, the department is empowered and shall have the duty to do all things reasonably necessary to carry out the purpose of this chapter, including, but not limited to, the following:

(1) The department shall administer treatment programs for the protection and care of neglected, abused and abandoned children, and in so doing may place in foster care, shelter care, or other diagnostic, treatment, or care centers or facilities, children of whom it has been given custody. The department is to be governed by the standards found in chapter 12, title 39, Idaho Code.

(2) On December 1, the department shall make an annual statistical report to the governor covering the preceding fiscal year showing the number and status of persons in its custody and including such other data as will provide sufficient facts for sound planning in the conservation of children and youth. All officials and employees of the state and of every county and city shall furnish the department, upon request, such information within their knowledge and control as the department deems necessary. Local agencies shall report in such uniform format as may be required by the department.

(3) The department shall be required to maintain a central registry for the reporting of child neglect, abuse and abandonment information. Provided however, that the department shall not retain any information for this purpose relating to a child, or parent of a child, abandoned pursuant to chapter 82, title 39, Idaho Code.

(4) The department shall make periodic evaluation of all persons in its custody or under its protective supervision for the purpose of determining whether existing orders and dispositions in individual cases shall be modified or continued in force. Evaluations may be made as frequently as the department considers desirable and shall be made with respect to every person at intervals not exceeding six (6) months. Reports of evaluation made pur-

suant to this section shall be filed with the court ~~which vested custody of the person with the department that has jurisdiction~~. Reports of evaluation shall be provided to persons having full or partial legal or physical custody of a child. Failure of the department to evaluate a person or to reevaluate him within six (6) months of a previous examination shall not of itself entitle the person to a change in disposition but shall entitle him, his parent, guardian or custodian or his counsel to petition the court pursuant to section 16-1622, Idaho Code.

(5) In a consultive capacity, the department shall assist communities in the development of constructive programs for the protection, prevention and care of children and youth.

(6) The department shall keep written records of investigations, evaluations, prognoses and all orders concerning disposition or treatment of every person over whom it has legal custody or under its protective supervision. Department records shall be subject to disclosure according to chapter 3, title 9, Idaho Code, unless otherwise ordered by the court, the person consents to the disclosure, or disclosure is necessary for the delivery of services to the person. Notwithstanding the provisions restricting disclosure or the exemptions from disclosure provided in chapter 3, title 9, Idaho Code, all records pertaining to investigations, the rehabilitation of youth, the protection of children, evaluation, treatment and/or disposition records pertaining to the statutory responsibilities of the department shall be disclosed to any duly elected state official carrying out his official functions.

(7) The department shall establish appropriate administrative procedures for the processing of complaints of child neglect, abuse and abandonment received and for the implementation of the protection, treatment and care of children formally or informally placed in the custody of the department or under its protective supervision under this chapter including, but not limited to:

(a) Department employees whose job duties are related to the child protective services system under this chapter shall first be trained as to their obligations under this chapter regarding the protection of children whose health and safety may be endangered. The curriculum shall include information regarding their legal duties, how to conduct their work in conformity with the requirements of this chapter, information regarding applicable federal and state laws with regard to the rights of the child, parent and others who may be under investigation under the child protective services system, and the applicable legal and constitutional parameters within which they are to conduct their work.

(b) Department employees whose job duties are related to the child protective services system shall advise the individual of the complaints or allegations made against the individual at the time of the initial contact, consistent with protecting the identity of the referent.

(8) The department having been granted legal custody of a child, subject to the judicial review provisions of this subsection, shall have the right to determine where and with whom the child shall live, provided that the child shall not be placed outside the state without the court's consent. Provided however, that the court shall retain jurisdiction over the child, which jurisdiction shall be entered on any order or petition granting legal custody to the department, and the court shall have jurisdiction over all matters relating to the child. The department shall not place the child in the home from which the court ordered the child removed without first obtaining the approval of the court.

(9) The department shall give to the court any information concerning the child that the court may at any time require, but in any event shall report the progress of the child under its custody or under its protective supervision at intervals of not to exceed six (6) months. The department shall file with the court at least five (5) days prior to the permanency hearing ei-

ther under section 16-1622, Idaho Code, or, in the case of a finding of aggravated circumstances, section 16-1620, Idaho Code, the permanency plan and recommendations of the department. ~~There shall be a rebuttable presumption that if a child is placed in the custody of the department and was also placed in out of the home care for a period not less than fifteen (15) out of the last twenty-two (22) months from the date the child entered shelter care, the department shall initiate a petition for termination of parental rights. This presumption may be rebutted by a finding of the court that the filing of a petition for termination of parental rights would not be in the best interest of the child or reasonable efforts have not been provided to reunite the child with his family, or the child is placed permanently with a relative.~~

(10) The department shall establish appropriate administrative procedures for the conduct of administrative reviews and hearings as required by federal statute for all children committed to the department and placed in out of the home care.

(11) At any time the department is considering a placement pursuant to this chapter, the department shall make a reasonable effort to place the child in the least restrictive environment to the child and in so doing shall consider, consistent with the best interest and special needs of the child, placement priority of the child in the following order:

- (a) A fit and willing relative.
- (b) A fit and willing nonrelative with a significant relationship with the child.
- (c) Foster parents and other persons licensed in accordance with chapter 12, title 39, Idaho Code.

SECTION 11. 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(256), Idaho Code; or

(b) ~~The parent(s) has failed to comply with the court's orders in a child protective act case or the case plan, and reunification of the child with his or her parent(s) has not occurred within the time standards set forth in section 16-1629(9), Idaho Code~~ 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.

SECTION 12. That Section 16-2005, Idaho Code, be, and the same is hereby amended to read as follows:

16-2005. CONDITIONS UNDER WHICH TERMINATION MAY BE GRANTED. (1) The court may grant an order terminating the relationship where it finds that termination of parental rights is in the best interests of the child and that one (1) or more of the following conditions exist:

- (a) The parent has abandoned the child.
- (b) The parent has neglected or abused the child.
- (c) The presumptive parent is not the biological parent of the child.
- (d) The parent is unable to discharge parental responsibilities and such inability will continue for a prolonged indeterminate period and will be injurious to the health, morals or well-being of the child.
- (e) The parent has been incarcerated and is likely to remain incarcerated for a substantial period of time during the child's minority.

(2) The court may grant an order terminating the relationship and may rebuttably presume that such termination of parental rights is in the best interests of the child where:

- (a) The parent caused the child to be conceived as a result of rape, incest, lewd conduct with a minor child under the age of sixteen (16) years, or sexual abuse of a child under the age of sixteen (16) years, as defined in sections 18-6101, 18-1508, 18-1506 and 18-6602, Idaho Code;
- (b) ~~The parent has subjected the child to torture, chronic abuse or sexual abuse, has committed murder or intentionally killed the other parent of the child, has committed murder or voluntary manslaughter of another child or has aided, abetted, conspired or solicited to commit such murder or voluntary manslaughter, and/or has committed battery which resulted in serious bodily injury to a child~~ The following circumstances are present:

(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 continuing the relationship 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;

(iv) The parent has committed murder, aided or abetted a murder, solicited a murder or attempted or conspired to commit murder; or

(c) The court determines the child to be an abandoned infant, except in a parental termination action brought by one (1) parent against another parent.

(3) The court may grant an order terminating the relationship if termination is found to be in the best interest of the parent and child.

(4) The court may grant an order terminating the relationship where a consent to termination in the manner and form prescribed by this chapter has been filed by the parent(s) of the child in conjunction with a petition for adoption initiated by the person or persons proposing to adopt the child, or where the consent to termination has been filed by a licensed adoption agency, no subsequent hearing on the merits of the petition shall be held. Consents required by this chapter must be witnessed by a district judge or magistrate of a district court, or equivalent judicial officer of the state, where a person consenting resides or is present, whether within or without the county, and shall be substantially in the following form:

IN THE DISTRICT COURT OF THE .... JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ....

In the Matter of the termination )  
of the parental rights of )  
..... )  
..... )

I (we), the undersigned, being the .... of ....., do hereby give my (our) full and free consent to the complete and absolute termination of my (our) parental right(s), to the said ....., who was born ....., unto ....., hereby relinquishing completely and forever, all legal rights, privileges, duties and obligations, including all rights of inheritance to and from the said ....., and I (we) do hereby expressly waive my (our) right(s) to hearing on the petition to terminate my (our) parental relationship with the said ....., and respectfully request the petition be granted.

DATED: ....., 20..  
.....

STATE OF IDAHO )  
 ) ss.  
COUNTY OF .... )

On this .... day of ....., 20.., before me, the undersigned ....., .... (Judge or Magistrate) of the District Court of the .... Judicial District of the state of Idaho, in and for the county of ....., personally appeared ....., known to me (or proved to me on the oath of ....) to be the person(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he (she, they) executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

..... (District Judge or Magistrate)

The court shall accept a consent or a surrender and release executed in another state if:

(1) It is witnessed by a magistrate or district judge of the state where signed; or

(2) The court receives an affidavit or a certificate from a court of comparable jurisdiction stating that the consent or the surrender and release was executed in accordance with the laws of the state in which it was executed, or the court is satisfied by other showing that the consent or surrender and release was executed in accordance with the laws of the state in which it was executed; or

(3) The court shall accept a termination or relinquishment from a sister state that has been ordered by a court of competent jurisdiction under like proceedings; or in any other manner authorized by the laws of a sister state. In a state where the father has failed to file notice of claim to paternity and willingness to assume responsibility as provided for pursuant to the laws of such state, and where such failure constitutes an abandonment of such child and constitutes a termination or relinquishment of the rights of the putative father, the court shall accept such failure as a termination in this state without further hearing on the merits, if the court is satisfied that such failure constitutes a termination or relinquishment of parental rights pursuant to the laws of that state.

(5) Unless a consent to termination signed by the parent(s) of the child has been filed by an adoption agency licensed in the state of Idaho, or unless the consent to termination was filed in conjunction with a petition for adoption of the child, the court shall hold a hearing.

(6) If the parent has a disability, as defined in this chapter, the parent shall have the right to provide evidence to the court regarding the manner in which the use of adaptive equipment or supportive services will enable the parent to carry out the responsibilities of parenting the child. Nothing in this section shall be construed to create any new or additional obligation on state or local governments to purchase or provide adaptive equipment or supportive services for parents with disabilities.

Approved April 9, 2013.

CHAPTER 288  
(H.B. No. 257)

AN ACT

RELATING TO BEER AND WINE; AMENDING SECTION 23-1031, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE ACCEPTANCE AND USE OF AN ELECTRONIC FUNDS TRANSFER; AND AMENDING SECTION 23-1326, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE ACCEPTANCE AND USE OF AN ELECTRONIC FUNDS TRANSFER.

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

SECTION 1. That Section 23-1031, Idaho Code, be, and the same is hereby amended to read as follows:

23-1031. EXTENSION OF CREDIT. (1) No sale or delivery of beer shall be made to any licensed retailer, except for cash paid at the time of or prior to delivery thereof, or except as provided by electronic funds transfer in accordance with subsection (3) of this section, and in no event shall any brewer, wholesaler or dealer licensed in the state and engaged in the sale of beer for resale extend any credit on account of such beer to a licensed retailer, nor shall any licensed retailer accept or receive delivery of such beer except when payment therefor is made in cash at the time of or prior to



delivery thereof, or by electronic funds transfer in accordance with subsection (3) of this section.

(2) The acceptance of a first party check from a licensed retailer by a brewer, wholesaler or dealer licensed in the state and engaged in the sale of beer for resale, or the use of a debit card by a licensed retailer, shall not be deemed an extension or acceptance of credit pursuant to this section.

(3) The acceptance and use of an electronic funds transfer shall not be deemed an extension or acceptance of credit pursuant to this section, provided such transfer is initiated and completed as promptly as ~~is reasonably practical~~, and in no event completed later than five (5) business days following delivery of such beer. Any attempt by a licensed retailer to delay payment of an electronic funds transfer pursuant to this section for any period of time beyond the time set forth in this subsection, shall be deemed an acceptance of credit by the licensed retailer.

(4) Any extension or acceptance of credit in violation hereof shall constitute the giving and receiving of aid or assistance to or by a licensed retailer prohibited by the provisions of section 23-1033, Idaho Code.

SECTION 2. That Section 23-1326, Idaho Code, be, and the same is hereby amended to read as follows:

23-1326. CREDIT SALES TO RETAILERS PROHIBITED. (1) No sale or delivery of wine shall be made to any retailer, except for cash paid at the time of or prior to delivery thereof, or except as provided by electronic funds transfer in accordance with subsection (3) of this section, and in no event shall any distributor extend any credit on account of such wine to a retailer, nor shall any retailer accept or receive delivery of such wine except when payment therefor is made in cash at the time of or prior to delivery thereof, or by electronic funds transfer in accordance with subsection (3) of this section.

(2) The acceptance of a first party check from a retailer by a distributor, or the use of a debit card by a licensed retailer, shall not be deemed an extension of or acceptance of credit pursuant to this section.

(3) The acceptance and use of an electronic funds transfer shall not be deemed an extension or acceptance of credit pursuant to this section, provided such transfer is initiated and completed as promptly as ~~is reasonably practical~~, and in no event completed later than five (5) business days following delivery of such wine. Any attempt by a licensed retailer to delay payment of an electronic funds transfer pursuant to this section for any period of time beyond the time set forth in this subsection, shall be deemed an acceptance of credit by the licensed retailer.

(4) Any extension or acceptance of credit in violation of the provisions of this section shall constitute the giving and receiving of aid or assistance to or by a licensed retailer prohibited by the provisions of section 23-1325, Idaho Code.

Approved April 9, 2013.

#### CHAPTER 289

(H.B. No. 265, As Amended, As Amended)

#### AN ACT

RELATING TO PUBLIC WORK; AMENDING SECTION 54-1218, IDAHO CODE, TO PROVIDE AN EXEMPTION FOR CERTAIN PUBLIC WORKS THAT HAVE BEEN CERTIFIED BY A PROFESSIONAL ENGINEER AND DOES NOT REPRESENT A MATERIAL RISK TO PUBLIC HEALTH OR SAFETY.

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

SECTION 1. That Section 54-1218, Idaho Code, be, and the same is hereby amended to read as follows:

54-1218. PUBLIC WORK. (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 work 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.

Approved April 9, 2013.

CHAPTER 290  
(H.B. No. 266)

AN ACT

RELATING TO THE PRACTICE OF VETERINARY MEDICINE; AMENDING SECTION 54-2103, IDAHO CODE, TO REVISE THE DEFINITION OF THE "PRACTICE OF VETERINARY MEDICINE" AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-2103, Idaho Code, be, and the same is hereby amended to read as follows:

54-2103. DEFINITIONS. As used in this chapter:

(1) "Accredited continuing education activity" means a provider and course, seminar, scientific program or any other activity approved by the board or its designees for continuing education credit.

(2) "Accredited or approved school of veterinary medicine" means any veterinary college or division of a university or college inside or outside the United States or Canada that offers the degree of doctor of veterinary medicine, veterinary medicine doctor, or its equivalent and is accredited or approved by the council on education of the American veterinary medical association or other accrediting agency or association approved by the board.

(3) "Allied health professional" means a person holding a current active license, in good standing, in any state to practice one (1) of the healing arts including, but not limited to, medicine, dentistry, osteopathy, chiropractic, acupuncture and podiatry.

(4) "Anesthetized" means any condition of general anesthesia, caused by the administration of a drug or combination of drugs in sufficient quantity to produce a state of unconsciousness or disassociation and blocked response to a given pain or alarm stimulus.

(5) "Animal" means any animal other than man and includes fowl, birds, fish and reptiles, wild or domestic, living or dead.

(6) "Assistant" means any individual, other than a certified veterinary technician or a licensed veterinarian, who is utilized by a licensed

veterinarian to assist in the performance of acts pertaining to the practice of veterinary medicine.

(7) "Board" means the state board of veterinary medicine.

(8) "Certified euthanasia agency" or "CEA" means a law enforcement agency, an animal control agency or a society for the prevention of cruelty to animals, which has been inspected and certified by the euthanasia task force or the board.

(9) "Certified euthanasia technician" or "CET" means:

(a) A person employed by a certified euthanasia agency, but not to include an individual employed as a technician by animal research laboratories, who is instructed and certified by the euthanasia task force or the board as defined in the rules of the board.

(b) Any person who is trained prior to December 31, 1992, in euthanasia methods, in a course approved by the board, may be certified upon presentation of evidence of such training to either the euthanasia task force or the board.

(10) "Certified veterinary technician" means a person who has fulfilled the certification requirements prescribed by board rule and has been certified by the board to practice veterinary technology in this state.

(11) "Consultation" means a deliberation between two (2) or more veterinarians concerning the diagnosis of a disease or the proper management of the case.

(12) "Credit hour" means fifty (50) minutes of participation in an accredited continuing education activity.

(13) "Dentistry" is the practice of veterinary medicine and means the application or use of any instrument or device to any portion of an animal's tooth, gum or any related tissue for the prevention, cure or relief of any wound, fracture, injury, disease or other condition of an animal's tooth, gum or related tissue. Dentistry includes, but is not limited to:

(a) "Preventive dental procedures" including, but not limited to, the removal of calculus, soft deposits, plaque, stains, and floating to shape the teeth above the gum line or the smoothing, filing or polishing of tooth surfaces above the gum line; and

(b) "Operative dentistry/oral surgery" or any other dental procedure that invades the hard or soft oral tissue including a procedure that alters the structure of one (1) or more teeth, or repairs damaged and diseased teeth, or the deliberate extraction of one (1) or more teeth.

(14) "Direct supervision" means the supervising veterinarian is on the premises where the animal is being treated, is quickly and easily available and the animal has been examined by the supervising veterinarian as acceptable veterinary medical practice requires.

(15) "Discipline" means board action including, but not limited to:

(a) Refusing to issue, renew or reinstate a license, permit or certification to practice as a licensed veterinarian, a certified veterinary technician, a certified euthanasia agency or a certified euthanasia technician;

(b) Denial, revocation, suspension, sanction, probation or voluntary surrender of a license, permit or certification to practice as a licensed veterinarian, a certified veterinary technician, a certified euthanasia agency or a certified euthanasia technician;

(c) The ability to enter into consent agreements and negotiated settlements with licensed veterinarians, certified veterinary technicians, certified euthanasia agencies and certified euthanasia technicians;

(d) The ability to bring an administrative or civil action against any person in or outside of this state who practices veterinary medicine, veterinary technology or who performs euthanasia within this state.

(16) "Emergency" means that the animal has been placed in a life-threatening condition where immediate treatment is necessary to sustain life.

(17) "Emergency veterinary facility" means any facility with the primary function of receiving, treating, and monitoring emergency patients during its specified hours of operation or that displays to the public any sign, card, or advertisement that indicates it is an emergency veterinary clinic or hospital. An emergency veterinary facility may be an independent after-hours service, an independent twenty-four (24) hour service, or it may be part of a full-service veterinary medical facility.

(18) "Euthanasia task force" means a task force established by the board for the purposes of training, examining, certifying and inspecting certified euthanasia agencies and certified euthanasia technicians.

(19) "Extra label use" means the actual or intended use of a human or veterinary drug in an animal in a manner that is not in accordance with the drug's labeling.

(20) "Floating" means shaping the posterior (cheek) teeth and the incisors (cutting teeth) in horses, mules and donkeys through the use of hand floats, rasps, burs, mechanical files or other file-like instruments to restore balance, allow more efficient mastication, and reduce pain and trauma to the periodontal tissues.

(21) "Herd, litter or flock" of animals means animals managed as a group for purposes including, but not limited to, breeding, sale, show or food production.

(22) "Immediate supervision" means the supervising veterinarian is in the immediate area, in audible and visual range of the animal patient and the person treating the patient and the animal has been examined by the supervising veterinarian as acceptable veterinary medical practice requires.

(23) "In good standing" means, when used in reference to an applicant for licensure or certification, that an applicant:

(a) Has not been the recipient of any administrative penalties regarding his practice of veterinary medicine including, but not limited to, fines, formal reprimands, license suspensions or revocations (except for license revocations for nonpayment of license renewal fees) or probationary limitations, or has not entered into any consent agreement or negotiated settlement that contains conditions placed by a board on his professional conduct and practice, including any voluntary surrender of a license; and

(b) Has never had his United States drug enforcement administration privileges restricted or revoked; and

(c) Is not currently under investigation by another veterinary licensing authority for acts which would provide a basis for disciplinary action in this state, as determined by the board; and

(d) Has no physical or mental impairment related to drugs, alcohol, or a finding of mental incompetence by a physician that would limit the applicant's ability to undertake the practice of veterinary medicine in a manner consistent with the safety of a patient or the public; and

(e) Has not been convicted of a felony as defined in chapter 1, title 18, Idaho Code; and

(f) Has no criminal conviction record or pending criminal charge relating to an offense the circumstances of which substantially relate to the practice of veterinary medicine. Applicants who have criminal conviction records or pending criminal charges shall require appropriate authorities to provide information about the record or charge directly to the board in sufficient detail to enable the board to make a determination whether the record or charge is substantially related to the practice of veterinary medicine.

(24) "Indirect supervision" means the supervising veterinarian is not on the premises but is available for immediate contact by telephone, radio or other means, has given either written or oral instructions for treatment of the animal patient, the animal has been examined by the supervising veterinarian as acceptable veterinary medical practice requires, and the animal,

if previously anesthetized, has recovered to the point of being conscious and sternal.

(25) "Legend/Prescription drug" means any drug which, under federal law, regulation or rule, is required, prior to being distributed or delivered, to be labeled with one (1) of the following statements: "Caution: Federal law restricts this drug to be used by or on the order of a licensed veterinarian," or "Caution: Federal law prohibits dispensing without a prescription," or "RX Only," or a drug which is required by any applicable state or federal law, rule or regulation to be distributed or dispensed pursuant to a prescription only, or is restricted to use by licensed practitioners only.

(26) "Licensed veterinarian" means a person who is validly and currently licensed to practice veterinary medicine in this state.

(27) "Malpractice" means, but is not limited to:

(a) Treatment in a manner contrary to accepted veterinary practices and with injurious results; or

(b) Any professional misconduct or unreasonable lack of professional skill or fidelity in the performance of the professional practice of veterinary medicine; or

(c) Failure to provide adequate supervision, except in an emergency situation; or

(d) Allowing an unqualified individual to perform a procedure that is part of the practice of veterinary medicine; or

(e) The negligent practice of veterinary medicine, as determined by the standard of practice for the area, that results in injury, unnecessary suffering or death.

(28) "Medical incompetence" means lacking in sufficient medical knowledge or skills or both to a degree likely to endanger the health of patients.

(29) "Mobile clinic" means a vehicle including, but not limited to, a camper, motor home, trailer or mobile home, used as a veterinary medical facility. A mobile clinic is not required for house calls or farm calls.

(30) "On-call emergency service" means a veterinary medical facility that is available to provide emergency veterinary services as requested if a veterinarian is available.

(31) "Owner/Ownership" means ownership as defined by the laws of property and ownership, chapter 1, title 55, Idaho Code, and chapter 1, title 73, Idaho Code.

(32) "Person" means any individual, firm, partnership, association, joint venture, cooperative and corporation, or any other group or combination acting in concert; and whether or not acting as principal, trustee, fiduciary, receiver, or as any other kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of such person.

(33) "Physical or mental incompetence" means the veterinarian's ability to practice veterinary medicine with reasonable skill and safety is impaired by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals or any other substance, or as a result of any mental or physical disability.

(34) "Practice of veterinary medicine" in this state, through telephonic, electronic or other means, regardless of the location of the veterinarian, includes veterinary surgery, obstetrics, dentistry, and all other branches or specialties of veterinary medicine and means:

(a) To directly or indirectly diagnose, treat, correct, change, relieve or prevent animal disease, deformity, defect, injury or other physical or mental conditions; including the ~~prescription or administration~~ prescribing, dispensing, delivering or administering of any drug, medicine, biologic, apparatus application, anesthetic or other therapeutic or diagnostic substance or technique, or the use of any obstetrical procedure or any manual or mechanical procedure for artificial insemination, for testing or examining for pregnancy,

fertility evaluation, embryo transplant, grading of fresh semen, or to render advice or recommendation with regard to any of the above.

(b) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in subsection (34) (a) of this section.

(c) To use any title, words, abbreviations or letter in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in subsection (34) (a) of this section, except where such person is a licensed veterinarian.

(35) "Professional supervision" means the supervising veterinarian is in daily contact by telephone, radio or other means with the temporary licensee.

(36) "Referral" means the transfer of responsibility for diagnosis and treatment from the referring veterinarian to the receiving veterinarian, or from the referring veterinarian to the board-certified specialist, or from the referring veterinarian to an allied health professional.

(37) "Regular employee" means a person who performs services for the animal's owner other than, or in addition to, feeding, boarding, castrating and dehorning, but does not include independent contractors or agents.

(38) "Supervision" means the action or process of a supervising veterinarian in directing activities or a course of action for those individuals to whom activities or functions have been assigned or delegated.

(39) "Supervising veterinarian" means a licensed veterinarian utilizing the services of a temporary licensee, certified veterinary technician, veterinary technician, veterinary technician with a temporary certification, veterinary assistant, certified euthanasia technician, or as provided by rule. A supervising veterinarian shall be individually responsible and liable, regardless of the supervision provided, for all damages arising out of his own acts or omissions and for the performance of any acts and omissions pertaining to the practice of veterinary medicine that are delegated to the temporary licensee, certified veterinary technician, veterinary technician, veterinary assistant or certified euthanasia technician. Nothing herein shall be construed to deprive the board of its disciplinary authority with respect to the temporary licensees, certified veterinary technicians, veterinary technicians, veterinary assistants or certified euthanasia technicians.

(40) "Unethical or unprofessional conduct" means to knowingly engage in conduct of a character likely to deceive or defraud the public, false or misleading advertising or solicitation, obtaining any fee or compensation by fraud or misrepresentation, sharing office space and working in conjunction with any person illegally practicing veterinary medicine, employing either indirectly or directly an unlicensed or uncertified person to perform acts pertaining to the practice of veterinary medicine, except as provided by law or rule, or the violation of any law or rules adopted by the board pertaining to unethical or unprofessional conduct, or that provide a code of professional conduct to be followed and carried out by persons licensed or certified by the board.

(41) "Unlicensed practice" means:

(a) The practice of veterinary medicine in this state, through telephonic, electronic or other means, regardless of the location of the veterinarian, without a valid, unexpired, unrevoked, and unsuspended active license or certification in this state to do so, except as provided by law or rule; or

(b) Representing one's self through offerings, advertisements or use of professional titles or designations as being qualified to practice veterinary medicine.

(42) "Veterinarian" means a person who has received a doctor's degree in veterinary medicine from an accredited or approved school of veterinary medicine or as otherwise provided by law or rule.

(43) "Veterinarian on call" means a veterinarian is not present at the veterinary medical facility, but is able to respond within a reasonable time to requests for emergency veterinary services.

(44) "Veterinarian on premises" means a veterinarian is present at the veterinary medical facility and is prepared and qualified to render veterinary services.

(45) "Veterinary medical facility" means any premises, office, unit, structure, mobile unit, or area utilized for the practice of veterinary medicine other than the premises of an owner when used for treatment of the owner's animal.

(46) "Veterinary technician" means a person who has graduated from a veterinary technology program accredited or approved by the council on education of the American veterinary medical association, or other accrediting agency approved by the board, or a person who has received equivalent training as set forth in the rules of the board.

(47) "Veterinary technology" means the performance of services within the practice of veterinary medicine by a person working under the direction of a supervising veterinarian to perform duties that require an understanding of veterinary medicine in order to carry out the orders of the veterinarian. Veterinary technology does not include prognosis, diagnosis, operative dentistry, deliberate tooth extraction procedures or the prescribing of treatment or performing surgery of any kind.

Approved April 9, 2013.

CHAPTER 291  
(H.B. No. 273)

AN ACT

RELATING TO MOTOR VEHICLE FINANCIAL RESPONSIBILITY; AMENDING SECTION 49-1234, IDAHO CODE, TO PROVIDE AN EXCEPTION FOR GOLF CARTS AND TO REVISE A DEFINITION; AND AMENDING SECTION 3, CHAPTER 103, LAWS OF 2012, TO REVISE THE EFFECTIVE DATE.

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

SECTION 1. That Section 49-1234, Idaho Code, be, and the same is hereby amended to read as follows:

49-1234. ONLINE INSURANCE VERIFICATION SYSTEM -- PEACE OFFICER DUTIES -- RULEMAKING. (1) The department shall establish and maintain an online insurance verification system for motor vehicle insurance coverage required by the provisions of this chapter, subject to the following:

(a) The department shall consult with representatives of the insurance industry to determine the objectives, details and deadlines relating to the verification system;

(b) The verification system shall be accessible through the internet, world wide web or a similar proprietary or common carrier electronic system by authorized personnel of the department, department of insurance, courts, law enforcement entities and of any other entity authorized by the department;

(c) The verification system shall provide for direct inquiry and response between the department and insurance carriers, or such other method of inquiry and response as agreed to by the department and individual insurance carriers, and direct access to insurers' records by personnel authorized by the department;

(d) The verification system shall be capable of sending inquiries to and receiving responses from insurers for the purpose of verifying cur-

rent motor vehicle insurance coverage via web services established by insurers through the internet, world wide web or a similar proprietary or common carrier electronic system, in compliance with the specifications and standards of the insurance industry committee on motor vehicle administration (IICMVA), provided that the department shall promulgate rules to provide insurers an alternative method for reporting motor vehicle insurance policy data rather than establishing web services or utilizing IICMVA's insurance data transfer guide;

(e) With the exception of unplanned system outages, the verification system shall be available twenty-four (24) hours a day to verify the insurance status of any motor vehicle registered in this state through the vehicle's identification number, policy number, registered owner's name or other identifying characteristic or marker; provided that a reasonable amount of downtime may be allotted for planned system outages;

(f) The verification system shall include appropriate provisions, consistent with IICMVA standards, to secure its data against unauthorized access and to maintain a record of all information requests; and

(g) All information exchanged between the department and insurance companies, any database created, all information contained in the verification system and all reports, responses or other information generated for the purposes of the verification system shall be exempt from disclosure as provided in section 9-340C, Idaho Code.

(2) As a condition for writing motor vehicle liability insurance policies in this state, insurance carriers shall cooperate with the department in establishing and maintaining the insurance verification system and shall provide access to motor vehicle insurance policy status information as may be provided in rules promulgated by the department.

(3) Insurers that make good faith efforts to comply with the provisions of this section shall be immune from civil or administrative liability related to this section.

(4) Peace officers shall access information from the online insurance verification system to verify the current validity of motor vehicle liability insurance. If insurance is verified, then the peace officer shall not issue a citation for an infraction violation of the provisions of section 49-1232, Idaho Code.

(5) If an Idaho uniform citation is issued to a person for an infraction violation of the provisions of section 49-1232, Idaho Code, and it is subsequently found that the legally required motor vehicle insurance coverage was in force at the time of the issuance of the citation, then the court shall dismiss the citation without penalty and such citation shall not appear on the person's record.

(6) This section shall not apply to any vehicle insured under commercial motor vehicle coverage and shall not apply to implements of husbandry and golf carts. As used in this section, "commercial motor vehicle coverage" means an insurance policy that covers a business's vehicles and employees and is approved by the department of insurance.

(7) The department may promulgate rules in accordance with the provisions of chapter 52, title 67, Idaho Code, to carry out the provisions of this section.

SECTION 2. That Section 3, Chapter 103, Laws of 2012, be, and the same is hereby amended to read as follows:

SECTION 3. Section 1 of this act shall be in full force and effect on and after July 1, 2015. Section 2 of tThis act shall be in full force and effect on and after January 1, 2014.



CHAPTER 292  
(H.B. No. 274)

AN ACT

RELATING TO THE TRAFFIC SAFETY EDUCATION PROGRAM; AMENDING CHAPTER 3, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-336, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO TRAFFIC SAFETY EDUCATION PROGRAMS AND RELATED FEES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 3, Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 50-336, Idaho Code, and to read as follows:

50-336. TRAFFIC SAFETY EDUCATION PROGRAM -- FEES. (1) Cities may by ordinance elect to offer a traffic safety education program to all drivers issued an infraction citation by a city law enforcement officer for a moving violation not involving a collision. Citations allowing the traffic safety education program alternative shall only be issued pursuant to section 49-1501, Idaho Code, and as permitted by this section. Such traffic safety education program shall be for the purpose of educating drivers in traffic safety concepts. Drivers qualified under this section who desire to pay the fixed penalty and court costs in lieu of appearing in court on the citation may also elect to attend a traffic safety education program offered by a city under this section as an alternative to receiving violation points and insurance rating charges as provided in subsection (6) of this section. At the time of issuance of the citation, drivers shall elect whether they wish to attend the program and, if so, the citing officer shall record the election in the uniform citation. The citing officer shall provide to the driver a written notice of the available times, locations and the cost of the program or a written notice identifying a telephone number or internet website address where such information can be obtained. The driver shall have forty-five (45) days from the date of issuance of the citation to complete the traffic safety education program. A driver electing to attend the program shall pay the fixed penalty and court costs for the citation to the clerk of the court as provided in the citation and pay the program fee, if any, separately to the city at or before the time of attendance at the program. Any person who fails to complete the offered traffic safety education program within the forty-five (45) days after voluntarily electing to attend will not receive the relief provided in subsection (6) of this section. Before issuing a citation allowing the traffic safety education program alternative, the citing officer shall ensure that the driver is not disqualified under subsection (2) of this section.

(2) The traffic safety education program option allowed under subsection (1) of this section is not available to:

- (a) Any driver holding a commercial driver's license or any person driving a commercial motor vehicle; or
- (b) Any driver having received within the last three (3) years relief from violation points under subsection (6) of this section or having received a point reduction as provided in rules of the Idaho department of transportation for completing any defensive driving or driver safety course.

(3) If the city imposes a traffic safety education program fee, such fee shall not exceed twenty-five dollars (\$25.00).

(4) If the city collects a program fee from a driver disqualified from the traffic safety education program alternative, the city shall refund the program fee to the driver no later than ten (10) days following the discov-

ery of the error. If the driver has already completed the program, the city shall, no later than ten (10) days following the discovery of the error, so notify the clerk of the court and the driver and shall advise the driver that the relief provided in subsection (6) of this section is not available and shall pay to the driver twenty-five dollars (\$25.00) as liquidated damages for the error, in addition to refunding the program fee.

(5) The city clerk or other authorized city official for the city in which the citation was issued shall within fifteen (15) days of the completion of the traffic safety education program by the cited driver transmit verification of the completion to the clerk of the county in which the citation was issued.

(6) When a person has successfully completed a traffic safety education program for an infraction citation, the infraction shall not result in violation point counts as prescribed in section 49-326, Idaho Code, nor shall the infraction be deemed to be a moving violation for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer.

(7) The Idaho supreme court shall establish such rules as deemed necessary to implement the provisions of this section.

SECTION 2. This act shall be in full force and effect on and after January 1, 2014.

Approved April 9, 2013.

CHAPTER 293  
(H.B. No. 291)

AN ACT

RELATING TO HOSPITALIZATION OF THE MENTALLY ILL; AMENDING SECTION 16-2411, IDAHO CODE, TO PROVIDE THAT A MINOR WHO IS SUFFERING FROM A SERIOUS EMOTIONAL DISTURBANCE AND POSES A DANGER TO HIMSELF OR OTHERS MAY BE TEMPORARILY DETAINED BY A HEALTH CARE PROFESSIONAL WITHOUT A HEARING, TO DEFINE A TERM AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 66-326, IDAHO CODE, TO PROVIDE THAT CERTAIN HEALTH CARE PROFESSIONALS MAY TEMPORARILY DETAIN A MENTALLY ILL PATIENT IN AN EMERGENCY WITHOUT A HEARING; AND AMENDING SECTION 66-329, IDAHO CODE, TO PROVIDE THAT CERTAIN HEALTH CARE PROFESSIONALS MAY COMMENCE PROCEEDINGS FOR THE INVOLUNTARY CARE AND TREATMENT OF MENTALLY ILL PERSONS BY THE DEPARTMENT OF HEALTH AND WELFARE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 16-2411, Idaho Code, be, and the same is hereby amended to read as follows:

16-2411. EMERGENCY MENTAL HEALTH RESPONSE AND EVALUATION -- TEMPORARY DETENTION BY A PEACE OFFICER OR HEALTH CARE PROFESSIONAL. (1) A peace officer may take a child into protective custody and immediately transport the child to a treatment facility for emergency mental health evaluation in the absence of a court order if and only if the officer determines that an emergency situation exists as defined in this chapter, and the officer has probable cause to believe, based on personal observation and investigation, representation of the child's parents or the recommendation of a mental health professional, that the child is suffering from serious emotional disturbance as a result of which he is likely to cause harm to himself or others or is manifestly unable to preserve his health or safety with the

supports and assistance available to him and that immediate detention and treatment is necessary to prevent harm to the child or others.

(2) For purposes of this section, "health care professional" means a physician, physician's assistant or advanced practice registered nurse, any one (1) of whom then is practicing in a hospital. A health care professional may detain a child if such person determines that an emergency situation exists as defined in this chapter, and such person has probable cause to believe that the child is suffering from a serious emotional disturbance as a result of which he is likely to cause harm to himself or others or is manifestly unable to preserve his health or safety with the supports and assistance available to him and that immediate detention and treatment is necessary to prevent harm to the child or others. If the hospital does not have an appropriate facility to provide emergency mental health care, it may cause the child to be transported to an appropriate treatment facility. The health care professional shall notify the parent or legal guardian, if known, as soon as possible and shall document in the patient's chart the efforts to contact the parent or legal guardian. If the parent or legal guardian cannot be located or contacted, the health care professional shall cause a report to be filed as soon as possible and in no case later than twenty-four (24) hours with the Idaho department of health and welfare or an appropriate law enforcement agency. The child may not be detained against the parent or legal guardian's explicit direction unless the child is taken into protective custody pursuant to subsection (1) of this section, except that the child may be detained for a reasonable period of time necessary for a peace officer to be summoned to the hospital to make a determination under subsection (1) of this section.

(3) If a child has been taken into protective custody by a peace officer under the provisions of this section, tThe officer shall immediately transport any the child taken into protective custody under this section, to a treatment facility or mental health program, such as a regional mental health center, a mobile crisis intervention program, or a therapeutic foster care facility, provided such center's program or facility has been approved by the regional office of the department for that purpose. The department shall make a list of approved facilities available to law enforcement agencies.

(34) Upon taking the child into protective custody or detaining the child pursuant to this section, the officer or health care professional shall take reasonable precautions to safeguard and preserve the personal property of the person child unless a parent or guardian or responsible relative is able to do so. Upon presenting a child to a treatment facility, the officer shall inform the staff in writing of the facts that caused him to detain the person, child and shall specifically state whether the person child is otherwise subject to being held for juvenile or criminal offenses.

(45) If the child who is being detained by a peace officer is not released to the child's parent, guardian or custodian, the law enforcement agency shall contact the child's parent, guardian or custodian as soon as possible, and in no case later than twenty-four (24) hours, and shall notify the child's parent, guardian or custodian of his status, location and the reasons for the detention of the child. If the parents cannot be located or contacted, efforts to comply with this section and the reasons for failure to make contact shall be documented in the child's record.

SECTION 2. That Section 66-326, Idaho Code, be, and the same is hereby amended to read as follows:

66-326. DETENTION WITHOUT HEARING. (1) No person shall be taken into custody or detained as an alleged emergency patient for observation, diagnosis, evaluation, care or treatment of mental illness unless and until the court has ordered such apprehension and custody under the provisions out-

lined in section 66-329, Idaho Code; provided, however, that a person may be taken into custody by a peace officer and placed in a facility, or the person may be detained at a hospital at which the person presented or was brought to receive medical or mental health care, if the peace officer or a physician medical staff member of such hospital or a physician's assistant or advanced practice registered nurse practicing in such hospital has reason to believe that the person is gravely disabled due to mental illness or the person's continued liberty poses an imminent danger to that person or others, as evidenced by a threat of substantial physical harm; provided, under no circumstances shall the proposed patient be detained in a nonmedical unit used for the detention of individuals charged with or convicted of penal offenses. For purposes of this section, the term "peace officer" shall include state probation and parole officers exercising their authority to supervise probationers and parolees. Whenever a person is taken into custody or detained under this section without court order, the evidence supporting the claim of grave disability due to mental illness or imminent danger must be presented to a duly authorized court within twenty-four (24) hours from the time the individual was placed in custody or detained.

(2) If the court finds the individual to be gravely disabled due to mental illness or imminently dangerous under subsection (1) of this section, the court shall issue a temporary custody order requiring the person to be held in a facility, and requiring an examination of the person by a designated examiner within twenty-four (24) hours of the entry of the order of the court. Under no circumstances shall the proposed patient be detained in a nonmedical unit used for the detention of individuals charged with or convicted of penal offenses.

(3) Where an examination is required under subsection (2) of this section, the designated examiner shall make his findings and report to the court within twenty-four (24) hours of the examination.

(4) If the designated examiner finds, in his examination under this section, that the person is mentally ill, and either is likely to injure himself or others or is gravely disabled due to mental illness, the prosecuting attorney shall file, within twenty-four (24) hours of the examination of the person, a petition with the court requesting the patient's detention pending commitment proceedings pursuant to the provisions of section 66-329, Idaho Code. Upon the receipt of such a petition, the court shall order his detention to await hearing which shall be within five (5) days (including Saturdays, Sundays and legal holidays) of the detention order. If no petition is filed within twenty-four (24) hours of the designated examiner's examination of the person, the person shall be released from the facility.

(5) Any person held in custody under the provisions of this section shall have the same protection and rights which are guaranteed to a person already committed to the department director. Upon taking a person into custody, notice shall be given to the person's immediate relatives of the person's physical whereabouts and the reasons for detaining or taking the person into custody.

(6) Nothing in this section shall preclude a hospital from transferring a person who has been detained under this section to another facility that is willing to accept the transferred individual for purposes of observation, diagnosis, evaluation, care or treatment.

SECTION 3. That Section 66-329, Idaho Code, be, and the same is hereby amended to read as follows:

66-329. COMMITMENT TO DEPARTMENT DIRECTOR UPON COURT ORDER -- JUDICIAL PROCEDURE. (1) Proceedings for the involuntary care and treatment of mentally ill persons by the department of health and welfare may be commenced by the filing of a written application with a court of competent jurisdiction by a friend, relative, spouse or guardian of the proposed patient, ~~or~~ by

a licensed physician, by a physician's assistant or advanced practice registered nurse practicing in a hospital, by a prosecuting attorney, or other public official of a municipality, county or of the state of Idaho, or by the director of any facility in which such patient may be.

(2) The application shall state the name and last known address of the proposed patient; the name and address of either the spouse, guardian, next of kin or friend of the proposed patient; whether the proposed patient can be cared for privately in the event commitment is not ordered; if the proposed patient is, at the time of the application, a voluntary patient; whether the proposed patient has applied for release pursuant to section 66-320, Idaho Code; and a simple and precise statement of the facts showing that the proposed patient is mentally ill and either likely to injure himself or others or is gravely disabled due to mental illness.

(3) Any such application shall be accompanied by a certificate of a designated examiner stating that he has personally examined the proposed patient within the last fourteen (14) days and is of the opinion that the proposed patient is: (i) mentally ill; (ii) likely to injure himself or others or is gravely disabled due to mental illness; and (iii) lacks capacity to make informed decisions about treatment, or a written statement by the applicant that the proposed patient has refused to submit to examination by a designated examiner.

(4) Upon receipt of an application for commitment, the court shall, within forty-eight (48) hours, appoint another designated examiner to make a personal examination of the proposed patient or if the proposed patient has not been examined, the court shall appoint two (2) designated examiners to make individual personal examinations of the proposed patient and may order the proposed patient to submit to an immediate examination. If neither designated examiner is a physician, the court shall order a physical examination of the proposed patient. At least one (1) designated examiner shall be a psychiatrist, licensed physician or licensed psychologist. The designated examiners shall report to the court their findings within the following seventy-two (72) hours as to the mental condition of the proposed patient and his need for custody, care, or treatment by a facility. The reports shall be in the form of written certificates which shall be filed with the court. The court may terminate the proceedings and dismiss the application without taking any further action in the event the reports of the designated examiners are to the effect that the proposed patient is not mentally ill or, although mentally ill, is not likely to injure himself or others or is not gravely disabled due to mental illness. If the proceedings are terminated, the proposed patient shall be released immediately.

(5) If the designated examiner's certificate states a belief that the proposed patient is mentally ill and either likely to injure himself or others or is gravely disabled due to mental illness, the judge of such court shall issue an order authorizing any health officer, peace officer, or director of a facility to take the proposed patient to a facility in the community in which the proposed patient is residing or to the nearest facility to await the hearing and for good cause may authorize treatment during such period subject to the provisions of section 66-346(a)(4), Idaho Code. Under no circumstances shall the proposed patient be detained in a nonmedical unit used for the detention of individuals charged with or convicted of penal offenses.

(6) Upon receipt of such application and designated examiners' reports the court shall appoint a time and place for hearing not more than seven (7) days from the receipt of such designated examiners' reports and thereupon give written notice of such time and place of such hearing together with a copy of the application, designated examiner's certificates, and notice of the proposed patient's right to be represented by an attorney, or if indigent, to be represented by a court-appointed attorney, to the applicant, to the proposed patient, to the proposed patient's spouse, guardian, next of

kin or friend. With the consent of the proposed patient and his attorney, the hearing may be held immediately. Upon motion of the proposed patient and attorney and for good cause shown, the court may continue the hearing up to an additional fourteen (14) days during which time, for good cause shown, the court may authorize treatment.

(7) An opportunity to be represented by counsel shall be afforded to every proposed patient, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel in accordance with chapter 8, title 19, Idaho Code, no later than the time the application is received by the court.

(8) If the involuntary detention was commenced under this section, the hearing shall be held at a facility, at the home of the proposed patient, or at any other suitable place not likely to have a harmful effect on the proposed patient's physical or mental health. Venue for the hearing shall be in the county of residence of the proposed patient or in the county where the proposed patient was found immediately prior to commencement of such proceedings.

(9) In all proceedings under this section, any existing provision of the law prohibiting the disclosure of confidential communications between the designated examiner and proposed patient shall not apply and any designated examiner who shall have examined the proposed patient shall be a competent witness to testify as to the proposed patient's condition.

(10) The proposed patient, the applicant, and any other persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The proposed patient shall be required to be present at the hearing unless the court determines that the mental or physical state of the proposed patient is such that his presence at the hearing would be detrimental to the proposed patient's health or would unduly disrupt the proceedings. A record of the proceedings shall be made as for other civil hearings. The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure. The court shall receive all relevant and material evidence consistent with the rules of evidence.

(11) If, upon completion of the hearing and consideration of the record, and after consideration of reasonable alternatives including, but not limited to, holding the proceedings in abeyance for a period of up to thirty (30) days, the court finds by clear and convincing evidence that the proposed patient:

- (a) Is mentally ill; and
- (b) Is, because of such condition, likely to injure himself or others, or is gravely disabled due to mental illness;

the court shall order the proposed patient committed to the custody of the department director for observation, care and treatment for an indeterminate period of time not to exceed one (1) year. The department director, through his dispositioner, shall determine within twenty-four (24) hours the least restrictive available facility or outpatient treatment, consistent with the needs of each patient committed under this section for observation, care, and treatment.

(12) The commitment order constitutes a continuing authorization for the department of health and welfare, law enforcement, or director of a facility, upon request of the director of the outpatient facility, the physician, or the department director through his dispositioner, to transport a committed patient to designated outpatient treatment for the purpose of making reasonable efforts to obtain the committed patient's compliance with the terms and conditions of outpatient treatment. If the director of the outpatient facility, the treating physician, or the department director through his dispositioner determines any of the following:

- (a) The patient is failing to adhere to the terms and conditions of outpatient treatment or the patient refuses outpatient treatment after reasonable efforts at compliance have been made; or
- (b) Outpatient treatment is not effective after reasonable efforts have been made;

the department director through his dispositioner shall cause the committed patient to be transported by the department of health and welfare, law enforcement, or director of a facility to the least restrictive available facility for observation, care and treatment on an inpatient basis. Within forty-eight (48) hours of a committed patient's transfer from outpatient treatment to a facility for inpatient treatment, the department director through his dispositioner shall notify the court that originally ordered the commitment, the committed patient's attorney, and either the committed patient's spouse, guardian, adult next of kin or friend of the change in disposition and provide a detailed affidavit reciting the facts and circumstances supporting the transfer from outpatient treatment to inpatient treatment at a facility. The court shall conduct an ex parte review of the notice and affidavit within forty-eight (48) hours of filing and determine whether the change in disposition from outpatient treatment to inpatient treatment at a facility is supported by probable cause. In no event shall the calculation of forty-eight (48) hours provided for in this subsection include holidays formally recognized and observed by the state of Idaho, nor shall the calculation include weekends. If the court determines that probable cause exists, the department director through his dispositioner shall continue with care and treatment on an inpatient basis at the least restrictive available facility. Within twenty-four (24) hours of a finding of probable cause, the court shall issue an order to show cause why the patient does not meet the conditions in subsection (12) (a) or (12) (b) of this section. The order shall be served on the committed patient, the committed patient's attorney and either the committed patient's spouse, guardian, adult next of kin or friend. The patient shall have fifteen (15) days to present evidence that the conditions in subsection (12) (a) or (12) (b) of this section have not been met. In no event shall the calculation of twenty-four (24) hours provided for in this subsection include holidays formally recognized and observed by the state of Idaho, nor shall the calculation include weekends. If the court determines that a change in disposition from outpatient treatment to inpatient treatment does not meet the conditions in subsection (12) (a) or (12) (b) of this section, the department director through his dispositioner will continue with outpatient treatment on the same or modified terms and conditions. Nothing provided in this section shall limit the authority of any law enforcement officer to detain a patient pursuant to the emergency authority conferred by section 66-326, Idaho Code.

(13) Nothing in this chapter or in any rule adopted pursuant thereto shall be construed to authorize the detention or involuntary admission to a hospital or other facility of an individual who:

- (a) Has epilepsy, a developmental disability, a physical disability, an intellectual disability, is impaired by chronic alcoholism or drug abuse, or aged, unless in addition to such condition, such person is mentally ill;
- (b) Is a patient under treatment by spiritual means alone, through prayer, in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof and who asserts to any authority attempting to detain him that he is under such treatment and who gives the name of a practitioner so treating him to such authority; or
- (c) Can be properly cared for privately with the help of willing and able family or friends, and provided, that such person may be detained or involuntarily admitted if such person is mentally ill and presents a

substantial risk of injury to himself or others if allowed to remain at liberty.

(14) The order of commitment shall state whether the proposed patient lacks capacity to make informed decisions about treatment, the name and address of the patient's attorney and either the patient's spouse, guardian, adult next of kin, or friend.

(15) If the patient has no spouse or guardian and if the patient has property which may not be cared for pursuant to chapter 5, title 66, Idaho Code, or by the patient while confined at a facility, the court shall appoint a guardian ad litem for the purpose of preserving the patient's estate, pending further guardianship or conservatorship proceedings.

(16) The commitment shall continue until the commitment is terminated and shall be unaffected by the patient's conditional release or change in disposition.

Approved April 9, 2013.

CHAPTER 294  
(H.B. No. 295)

AN ACT

RELATING TO THE EDUCATIONAL SUPPORT PROGRAM; AMENDING SECTION 33-1002, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DETERMINATION OF CERTAIN DISTRICT SUPPORT UNITS AND TO REVISE PROVISIONS RELATING TO A DISTRICT'S TOTAL ALLOWANCE FOR THE EDUCATIONAL SUPPORT PROGRAM; AND DECLARING AN EMERGENCY.

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

SECTION 1. 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 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
- (m) 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 . . . . .	. . . . .	.. 15
	..23...grades 4,5 & 6 . . . .	
	..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 ~~tenth~~ 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 ~~tenth~~ 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 ~~tenth~~ 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 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.

CHAPTER 295  
(H.B. No. 311)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2013; APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION; TRANSFERRING MONEYS FROM THE PERMANENT BUILDING FUND; AND DECLARING AN EMERGENCY FOR SECTION 1 OF THIS ACT.

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

SECTION 1. In addition to the appropriation made in Section 4, Chapter 290, Laws of 2012, and any other appropriation provided for by law, there is hereby appropriated \$49,400 from the Administration and Accounting Services Fund to the Department of Administration, to be expended for operating expenditures for purchasing contract costs for the Purchasing Program, for the period July 1, 2012, through June 30, 2013.

SECTION 2. There is hereby appropriated to the Department of Administration, the following amounts to be expended 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 CAPITAL OUTLAY	TOTAL
I. MANAGEMENT SERVICES:				
FROM:				
General				
Fund	\$147,300	\$48,300		\$195,600
Indirect Cost Recovery				
Fund	654,600	243,300		897,900
Administration and Accounting Services				
Fund	51,400	10,000		61,400
Industrial Special Indemnity				
Fund	<u>155,300</u>	<u>107,500</u>		<u>262,800</u>
TOTAL	\$1,008,600	\$409,100		\$1,417,700
II. ADMINISTRATIVE RULES:				
FROM:				
Administrative Code				
Fund	\$212,200	\$221,300		\$433,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
<b>III. INFORMATION TECHNOLOGY RESOURCE MGMT COUNCIL:</b>				
FROM:				
General				
Fund	\$70,500	\$9,600		\$80,100
Administration and Accounting Services				
Fund	<u>434,400</u>	<u>138,200</u>		<u>572,600</u>
TOTAL	\$504,900	\$147,800		\$652,700
<b>IV. INFORMATION TECHNOLOGY:</b>				
FROM:				
General				
Fund	\$985,400	\$3,507,800	\$1,771,800	\$6,265,000
Idaho Education Network				
Fund		874,000		874,000
Indirect Cost Recovery				
Fund	451,200	68,500		519,700
Administration and Accounting Services				
Fund	<u>573,300</u>	<u>559,000</u>	<u>0</u>	<u>1,132,300</u>
TOTAL	\$2,009,900	\$5,009,300	\$1,771,800	\$8,791,000
<b>V. PUBLIC WORKS:</b>				
FROM:				
General				
Fund		\$293,100		\$293,100
Permanent Building				
Fund	\$1,781,100	650,800		2,431,900
Administration and Accounting Services				
Fund	<u>1,582,500</u>	<u>5,717,000</u>		<u>7,299,500</u>
TOTAL	\$3,363,600	\$6,660,900		\$10,024,500
<b>VI. PURCHASING:</b>				
FROM:				
General				
Fund	\$705,600			\$705,600
Administration and Accounting Services				
Fund	938,700	\$1,056,000	\$148,000	2,142,700
Federal Surplus Property Revolving				
Fund	<u>116,900</u>	<u>252,000</u>	<u>0</u>	<u>368,900</u>
TOTAL	\$1,761,200	\$1,308,000	\$148,000	\$3,217,200
<b>VII. INSURANCE MANAGEMENT:</b>				
FROM:				
Employee Group Insurance				
Fund	\$429,700	\$469,600		\$899,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Retained Risk				
Fund	<u>419,200</u>	<u>198,000</u>		<u>617,200</u>
TOTAL	\$848,900	\$667,600		\$1,516,500
GRAND TOTAL	\$9,709,300	\$14,424,000	\$1,919,800	\$26,053,100

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Administration is authorized no more than one hundred forty-six and seventy-five hundredths (146.75) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, 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. The Legislature 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 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. There is hereby appropriated and the State Controller shall transfer \$1,368,750 from the Permanent Building Fund to the Administration and Accounting Services Fund on July 1, 2013, or as soon thereafter as practicable, and on January 1, 2014, or as soon thereafter as practicable, an amount of \$1,368,750 for a total transfer of \$2,737,500 for the Public Officials' Capitol Mall Facilities payment due in fiscal year 2014.

SECTION 6. 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 April 9, 2013.

CHAPTER 296  
(H.B. No. 312)

AN ACT  
APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE BOND PAYMENT PROGRAM FOR FISCAL YEAR 2014.

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

SECTION 1. There is hereby appropriated to the Department of Administration for the Bond Payment 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 OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:			
General			
Fund	\$2,687,400	\$1,680,200	\$4,367,600
Permanent Building			
Fund	8,511,000	18,288,200	26,799,200
Administration and Accounting Services			
Fund	<u>424,200</u>	<u>229,000</u>	<u>653,200</u>
TOTAL	\$11,622,600	\$20,197,400	\$31,820,000

Approved April 9, 2013.

CHAPTER 297  
(H.B. No. 313)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF PUBLIC WORKS FOR FISCAL YEAR 2014; AUTHORIZING AND DIRECTING THE ALLOCATION OF FUNDS FOR THE VARIOUS PROJECTS SPECIFIED; PROVIDING LEGISLATIVE INTENT RELATING TO UTILIZATION OF MATCHING FUNDS; EXEMPTING THE APPROPRIATION FROM THE PROVISIONS OF CHAPTER 36, TITLE 67, IDAHO CODE, AND FROM THE PROVISIONS OF SECTION 67-3516, IDAHO CODE; PROVIDING LEGISLATIVE INTENT RELATING TO REALLOCATION OF PROJECT SAVINGS; STATING FINDINGS OF THE LEGISLATURE ON THE NEED FOR DEFERRED MAINTENANCE FUNDING AT THE STATE INSTITUTIONS OF HIGHER LEARNING; AND DIRECTING THE ALLOCATION OF FUNDS FOR DEFERRED MAINTENANCE AT THE STATE INSTITUTIONS OF HIGHER LEARNING.

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

SECTION 1. There is hereby appropriated to the Division of Public Works \$36,613,900 from the Permanent Building Fund, to be expended for capital outlay, for the period July 1, 2013, through June 30, 2014.

SECTION 2. ALLOCATION OF FUNDS FOR SPECIFIC PROJECTS. Moneys appropriated in Section 1 of this act, or so much thereof as in each case may be necessary, shall be used for the purpose of paying the cost of any land, building, equipment, or the rebuilding, renovation or repair of buildings, installations, facilities or structures at the places, institutions and agencies, or their successors, including those listed in this section. The Permanent Building Fund Advisory Council is hereby authorized and directed to anticipate revenues accruing to the Permanent Building Fund for the purpose of undertaking the construction, renovation, repair and acquisitions herein authorized, without delay, and to determine the priority of construction pursuant to which the work hereunder will be undertaken.

**MAINTENANCE PROJECTS IN THE FOLLOWING AREAS:**

Alterations and Repairs	\$14,000,000
Asbestos Abatement	114,100
Statewide American Disability Act Compliance	800,000
Capitol Mall Maintenance	120,000
Deferred Maintenance - Higher Education	<u>12,500,000</u>
<b>TOTAL</b>	<b>\$27,534,100</b>

**CAPITAL PROJECTS:**

Capitol Annex Infrastructure	\$1,500,000
Idaho State University Anatomy Lab	1,957,300
University of Idaho Research & Innovation Center	2,500,000
Idaho State Historical Society Museum Remodel	2,400,000
Rexburg Military Readiness Center Remodel	<u>722,500</u>
<b>TOTAL</b>	<b>\$9,079,800</b>

**GRAND TOTAL** **\$36,613,900**

**SECTION 3. UTILIZATION OF MATCHING FUNDS.** It is legislative intent that the moneys appropriated in this act may be made available for matching any allocation of moneys now in existence or hereafter made available by agencies of the United States and/or private donations; and it is further the express intention of the Legislature to authorize the Division of Public Works to expend, for the purpose of paying the cost of any land, building, equipment or the rebuilding, renovation or repair of buildings, moneys appropriated for public works to various agencies as part of the respective agencies' operating budgets; provided the express approval by the Permanent Building Fund Advisory Council is granted to make application for such moneys in each instance.

**SECTION 4. EXEMPTION OF APPROPRIATIONS FROM CERTAIN PROVISIONS.** All appropriations made herein shall be exempt from the provisions of Chapter 36, Title 67, and Section 67-3516, Idaho Code, but shall be available for expenditure only after allotment in accordance with the other provisions of Chapter 35, Title 67, Idaho Code, and all appropriations made hereunder shall be subject to the provisions of Section 67-5711, Idaho Code, except as otherwise provided herein.

**SECTION 5. REALLOCATION OF PROJECT SAVINGS.** It is the intent of the Legislature that the Division of Public Works have the flexibility to allocate any savings or unused appropriation from any capital, line-item project to any other requested and funded fiscal year 2014 capital projects. The reallocation of such appropriation must be approved by the Permanent Building Fund Advisory Council prior to the funds being spent.

**SECTION 6. FINDINGS OF THE LEGISLATURE ON THE NEED FOR DEFERRED MAINTENANCE FUNDING AT THE STATE INSTITUTIONS OF HIGHER LEARNING.** It is the finding of the Legislature that the campuses of our state institutions, the University of Idaho, Boise State University, Idaho State University and Lewis-Clark State College have significant deferred maintenance needs that cannot be met with the existing revenue available in the Permanent Building Fund. A study was prepared by the Legislative Services Office, at the request of



the Joint Finance-Appropriations Committee, to define and quantify the deferred maintenance needs of the institutions. Working jointly with the institutions and the Office of the State Board of Education, it was determined that each institution's annual maintenance and repair needs greatly exceed available funding from state or institution resources. Therefore, the Legislature recognizes that there is an opportunity to designate one-time funds generated by excess cigarette taxes deposited into the Permanent Building Fund for the Capitol restoration that will not be necessary in fiscal year 2014 to make the bond payment, and that can be used to enhance the safety of and extend the usefulness of the buildings on the respective campuses. It is the intent of the Legislature that these funds shall not supplant any funding requested and approved for the universities and college by the Division of Public Works for alterations and repairs in Section 2 of this act. The Division of Public Works is authorized to work jointly with the State Board of Education to identify suitable projects for which funds have not been previously appropriated through occupancy costs.

SECTION 7. ALLOCATION OF FUNDS FOR DEFERRED MAINTENANCE AT THE STATE INSTITUTIONS OF HIGHER LEARNING. Notwithstanding the provisions of Section 63-2520, Idaho Code, of the total amount of moneys distributed to the Permanent Building Fund for the Capitol restoration, \$12,500,000 shall be designated to meet the deferred maintenance needs of the four-year public institutions of higher learning in the State of Idaho. Of the amount available, the University of Idaho shall receive \$3,750,000; Boise State University shall receive \$3,750,000; Idaho State University shall receive \$3,750,000; and Lewis-Clark State College shall receive \$1,250,000.

Approved April 9, 2013.

CHAPTER 298  
(H.B. No. 317)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-513, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO A WRITTEN EVALUATION OF CERTAIN EMPLOYEE'S PERFORMANCE, TO CORRECT A CODIFIER'S ERROR AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-514, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CATEGORY 3 CONTRACT AND TO REVISE PROVISIONS RELATING TO CERTAIN WRITTEN EVALUATIONS; AND AMENDING SECTION 33-515, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CERTAIN EVALUATION AFTER THE THIRD FULL YEAR OF EMPLOYMENT.

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

SECTION 1. That Section 33-513, Idaho Code, be, and the same is hereby amended to read as follows:

33-513. PROFESSIONAL PERSONNEL. The board of trustees of each school district, including any specially chartered district, shall have the following powers and duties:

1. To employ professional personnel, on written contract in form approved by the state superintendent of public instruction, conditioned upon a valid certificate being held by such professional personnel at the time of entering upon the duties thereunder. Should the board of trustees fail to enter into written contract for the employment of any such person, the state superintendent of public instruction shall withhold ensuing apportionments until such written contract be entered into. When the board of trustees has

delivered a proposed contract for the next ensuing year to any such person, such person shall have a period of time to be determined by the board of trustees in its discretion, but in no event less than ten (10) days from the date the contract is delivered, in which to sign the contract and return it to the board. Delivery of a contract may be made only in person or by certified mail, return receipt requested. When delivery is made in person, delivery of the contract must be acknowledged by a signed receipt. When delivery is made by certified mail, delivery must be acknowledged by the return of the certified mail receipt from the person to whom the contract was sent. Should the person willfully refuse to acknowledge receipt of the contract or the contract is not signed and returned to the board in the designated period of time, the board may declare the position vacant.

The board of trustees shall withhold the salary of any teacher who does not hold a teaching certificate valid in this state. It shall not contract to require any teacher to make up time spent in attending any meeting called by the state board of education or by the state superintendent of public instruction; nor while attending regularly scheduled official meetings of the state teachers' association.

2. In the case of school districts other than elementary school districts, to employ a superintendent of schools for a term not to exceed three (3) years, who shall be the executive officer of the board of trustees with such powers and duties as the board may prescribe. The superintendent shall also act as the authorized representative of the district whenever such is required, unless some other person shall be named by the board of trustees to act as its authorized representative. The board of trustees shall conduct an annual, written formal evaluation of the work of the superintendent of the district. The evaluation shall indicate the strengths and weaknesses of the superintendent's job performance in the year immediately preceding the evaluation and areas where improvement in the superintendent's job performance, in the view of the board of trustees, is called for.

3. To employ through written contract principals who shall hold a valid certificate appropriate to the position for which they are employed, who shall supervise the operation and management of the school in accordance with the policies established by the board of trustees and who shall be under the supervision of the superintendent.

4. To employ assistant superintendents and principals for a term not to exceed two (2) years. Service performed under such contract shall be included in meeting the provisions of section 33-515, Idaho Code, as a teacher and persons eligible for a renewable contract as a teacher shall retain such eligibility. The superintendent, the superintendent's designee, or in a school district that does not employ a superintendent, the board of trustees, shall conduct an annual, written evaluation of each such employee's performance.

5. To suspend, grant leave of absence, place on probation or discharge certificated professional personnel for a material violation of any lawful rules or regulations of the board of trustees or of the state board of education, or for any conduct which could constitute grounds for revocation of a teaching certificate. Any certificated professional employee, except the superintendent, may be discharged during a contract term under the following procedures:

(a) The superintendent or any other duly authorized administrative officer of the school district may recommend the discharge of any certificated employee by filing with the board of trustees written notice specifying the alleged reasons for discharge.

(b) Upon receipt of such notice the board, acting through ~~their~~ its duly authorized administrative official, shall give the affected employee written notice of the allegations and the recommendation of discharge, along with written notice of a hearing before the board prior to any determination by the board of the truth of the allegations.

(c) The hearing shall be scheduled to take place not less than six (6) days nor more than twenty-one (21) days after receipt of the notice by the employee. The date provided for the hearing may be changed by mutual consent.

(d) The hearing shall be public unless the employee requests in writing that it be in executive session.

(e) All testimony at the hearing shall be given under oath or affirmation. Any member of the board, or the clerk of the board, may administer oaths to witnesses or affirmations by witnesses.

(f) The employee may be represented by legal counsel and/or by a representative of a local or state teachers association.

(g) The chairman of the board or the designee of the chairman shall conduct the hearing.

(h) The board 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 upon request of the employee.

(i) At the hearing the superintendent or other duly authorized administrative officer shall present evidence to substantiate the allegations contained in such notice.

(j) The employee may produce evidence to refute the allegations. Any witness presented by the superintendent or by the employee shall be subject to cross-examination. The board may also examine witnesses and be represented by counsel.

(k) The affected employee may file written briefs and arguments with the board within three (3) days after the close of the hearing or such other time as may be agreed upon by the affected employee and the board.

(l) Within fifteen (15) days following the close of the hearing, the board shall determine and, acting through ~~their~~ its duly authorized administrative official, shall notify the employee in writing whether the evidence presented at the hearing established the truth of the allegations and whether the employee is to be retained, immediately discharged, or discharged upon termination of the current contract.

SECTION 2. That Section 33-514, Idaho Code, be, and the same is hereby amended to read as follows:

33-514. ISSUANCE OF ANNUAL CONTRACTS -- SUPPORT PROGRAMS -- CATEGORIES OF CONTRACTS -- OPTIONAL PLACEMENT. (1) The board of trustees shall establish criteria and procedures for the supervision and evaluation of certificated employees who are not employed on a renewable contract, as provided for in section 33-515, Idaho Code.

(2) There shall be three (3) categories of annual contracts available to local school districts under which to employ certificated personnel:

(a) A category 1 contract is a limited one-year contract as provided in section 33-514A, Idaho Code.

(b) A category 2 contract is for certificated personnel in the first and second years of continuous employment with the same school district. Upon the decision by a local school board not to reemploy the person for the following year, the certificated employee shall be provided a written statement of reasons for non-reemployment by no later than May 25. No property rights shall attach to a category 2 contract and therefore the employee shall not be entitled to a review by the local board of the reasons or decision not to reemploy.

(c) A category 3 contract is for certificated personnel during the third year of continuous employment by the same school district. ~~District procedures shall require at least one (1) evaluation prior to the beginning of the second semester of the school year and the results of any such evaluation shall be made a matter of record in the employee's~~

~~personnel file.~~ When any such employee's work is found to be unsatisfactory a defined period of probation shall be established by the board, but in no case shall a probationary period be less than eight (8) weeks. After the probationary period, action shall be taken by the board as to whether the employee is to be retained, immediately discharged, discharged upon termination of the current contract or reemployed at the end of the contract term under a continued probationary status. Notwithstanding the provisions of sections 67-2344 and 67-2345, Idaho Code, a decision to place certificated personnel on probationary status may be made in executive session and the employee shall not be named in the minutes of the meeting. A record of the decision shall be placed in the employee's personnel file. This procedure shall not preclude recognition of unsatisfactory work at a subsequent evaluation and the establishment of a reasonable period of probation. In all instances, the employee shall be duly notified in writing of the areas of work which are deficient, including the conditions of probation. Each such certificated employee on a category 3 contract shall be given notice, in writing, whether he or she will be reemployed for the next ensuing year. Such notice shall be given by the board of trustees no later than the twenty-fifth day of May of each such year. If the board of trustees has decided not to reemploy the certificated employee, then the notice must contain a statement of reasons for such decision and the employee shall, upon request, be given the opportunity for an informal review of such decision by the board of trustees. The parameters of an informal review shall be determined by the local board.

(3) School districts hiring an employee who has been on renewable contract status with another Idaho district or has out-of-state experience which would otherwise qualify the certificated employee for renewable contract status in Idaho, shall have the option to immediately grant renewable contract status, or to place the employee on a category 3 annual contract. Such employment on a category 3 contract under the provisions of this subsection may be for one (1), two (2) or three (3) years.

(4) ~~There shall be a minimum of two one (21) written evaluations in each of the annual contract years of employment, and at least one (1) evaluation shall be completed before January 1 of each year. The provisions of this subsection (4) shall not apply to employees on a category 1 contract which 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. The requirement to provide at least one (1) written evaluation does not exclude additional evaluations that may be performed. No civil action for money damages shall arise for failure to comply with the provisions of this subsection.~~

SECTION 3. 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, having given notice of acceptance of renewal and upon signing a contract for a fourth full year, be placed on a renewable contract status with said school district subject to the provisions included in this chapter.

(2) After the third full year of employment and at least once annually, the performance of each such 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. Except as otherwise provided, that person shall have the right to automatic renewal of contract by giving notice, in writing, of acceptance of renewal. Such notice shall be given to the board of trustees of the school district then employing such person not later than the first day of June preceding the expiration of the term of the current contract. Except as otherwise provided by this paragraph, the board of trustees shall notify each person entitled to be employed on a renewable contract of the requirement that such person must give the notice hereinabove and that failure to do so may be interpreted by the board as a declination of the right to automatic renewal or the offer of another contract. Such notification shall be made, in writing, not later than the fifteenth day of May, in each year, except to those persons to whom the board, prior to said date, has sent proposed contracts for the next ensuing year, or to whom the board has given the notice required by this section.

(3) Any contract automatically renewed under the provisions of this section shall be for the same length as the term stated in the current contract and at a salary no lower than that specified therein, to which shall be added such increments as may be determined by the statutory or regulatory rights of such employee by reason of training, service, or performance, except where a board of trustees has declared a financial emergency pursuant to section 33-522, Idaho Code.

(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, or to renew the contract of any such person at a reduced salary, 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, or to renew the contract of any such person at a reduced salary, 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 (7) 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.

Approved April 9, 2013.

CHAPTER 299  
(H.B. No. 318)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-118, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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 33-16271024, Idaho Code, and the fees necessary to defray the department's cost of such review and approval process.

Approved April 9, 2013.

CHAPTER 300  
(H.B. No. 319)

AN ACT

RELATING TO EDUCATION; TO ESTABLISH PROVISIONS RELATING TO THE EXPENDITURE OF CERTAIN MONEYS FOR A CERTAIN TIME PERIOD, TO ESTABLISH PROVISIONS RELATING TO THE DETERMINATION OF A CERTAIN AMOUNT AND TO PROVIDE THAT SCHOOL DISTRICTS SHALL PROVIDE CERTAIN INFORMATION.

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

SECTION 1. The provisions of Section 33-1019, Idaho Code, notwithstanding, for the period July 1, 2013, through June 30, 2014, only, two-thirds (2/3) of the current fiscal year's amount of local maintenance match moneys normally required to be allocated for the maintenance and repair of student-occupied buildings may be spent on other one-time, nonpersonnel costs, at the discretion of the school district. Such amount shall be determined by the State Department of Education as follows:

(1) Subtract from two-thirds (2/3) of the local maintenance match requirement two-thirds (2/3) of all plant facility levy funds levied for tax year 2012.

(2) Subtract from the balance of any funds remaining after the subtraction provided for in subsection (1) of this section, any additional funds necessary to fully remediate all recommendations and code violations identified in the most recent inspection of each student-occupied building conducted by the Division of Building Safety, excluding any recommendations for which the least expensive remediation solution is the replacement of the building. School districts shall furnish information pursuant to the provisions of this section, as may be required by the State Department of Education.

Approved April 9, 2013.

CHAPTER 301  
(H.B. No. 324)

AN ACT

RELATING TO THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN; REPEALING SECTION 33-212, IDAHO CODE, RELATING TO EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN; AND AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 57, TITLE 33, IDAHO CODE, TO ESTABLISH THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN, TO PROVIDE A PURPOSE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR APPLICABILITY, TO PROVIDE FOR EDUCATIONAL RECORDS AND ENROLLMENT, TO PROVIDE FOR PLACEMENT AND ATTENDANCE, TO PROVIDE FOR ELIGIBILITY, TO PROVIDE FOR GRADUATION, TO PROVIDE FOR STATE COORDINATION, TO PROVIDE FOR THE INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN, TO PROVIDE FOR POWERS AND DUTIES, TO PROVIDE FOR THE ORGANIZATION AND OPERATION OF THE COMMISSION, TO PROVIDE FOR RULEMAKING, TO PROVIDE FOR OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION, TO PROVIDE FOR FINANCING, TO ESTABLISH PROVISIONS RELATING TO MEMBER STATES, EFFECTIVE DATES AND AMENDMENTS, TO PROVIDE FOR WITHDRAWAL AND DISSOLUTION, TO PROVIDE FOR SEVERABILITY AND CONSTRUCTION AND TO PROVIDE FOR BINDING EFFECT OF COMPACT AND OTHER LAWS.

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

SECTION 1. That Section 33-212, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 57, Title 33, Idaho Code, and to read as follows:

CHAPTER 57

INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

33-5701. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN. The "Interstate Compact on Educational Opportunity for Military Children" is hereby enacted into law and entered into by this state with any other states legally joining therein in the form substantially as follows:



## INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

## ARTICLE I

## PURPOSE

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district(s) or variations in entrance/age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents and the student in order to achieve educational success for the student.

## ARTICLE II

## DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means: full-time duty status in the active uniformed service of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. sections 1209 and 1211.

B. "Children of military families" means: a school-aged child(ren), enrolled in kindergarten through twelfth grade, in the household of an active duty member.

C. "Compact commissioner" means: the voting representative of each compacting state appointed pursuant to article VIII of this compact.

D. "Deployment" means: the period one (1) month prior to the service members' departure from their home station on military orders through six (6) months after return to their home station.

E. "Education(al) records" means: those official records, files, and data directly related to a student and maintained by the school or local education agency including, but not limited to, records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. "Extracurricular activities" means: a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

G. "Interstate Commission on Educational Opportunity for Military Children" means: the commission that is created under article IX of this compact, which is generally referred to as the interstate commission.

H. "Local education agency" means: a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through twelfth grade public educational institutions.

I. "Member state" means: a state that has enacted this compact.

J. "Military installation" means: a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the department of defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other United States territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. "Nonmember state" means: a state that has not enacted this compact.

L. "Receiving state" means: the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. "Rule" means: a written statement by the interstate commission promulgated pursuant to article XII of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the interstate commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

N. "Sending state" means: the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means: a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other United States territory.

P. "Student" means: the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten through twelfth grade.

Q. "Transition" means: 1) the formal and physical process of transferring from school to school; or 2) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. "Uniformed service(s)" means: the army, navy, air force, marine corps, and coast guard as well as the commissioned corps of the national oceanic and atmospheric administration, and public health services.

S. "Veteran" means: a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

### ARTICLE III

#### APPLICABILITY

A. Except as otherwise provided in section B. of this article, this compact shall apply to the children of:

1. Active duty members of the uniformed services as defined in this compact, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. section 1209 and 1211;
2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one (1) year after medical discharge or retirement; and
3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one (1) year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

1. Inactive members of the national guard and military reserves;
2. Members of the uniformed services now retired, except as provided in section A. of this article;
3. Veterans of the uniformed services, except as provided in section A. of this article; and
4. Other United States department of defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

#### ARTICLE IV

##### EDUCATIONAL RECORDS AND ENROLLMENT

A. Unofficial or "hand-carried" educational records. In the event that official educational records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the interstate commission. Upon receipt of the unofficial educational records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official educational records/transcripts. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official educational records from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official educational records to the school in the receiving state within ten (10) days or within such time as is reasonably determined under the rules promulgated by the interstate commission.

C. Immunizations. Compacting states shall give thirty (30) days from the date of enrollment, or within such time as is reasonably determined under the rules promulgated by the interstate commission, for students to obtain any immunization(s) required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty (30) days or within such time as is reasonably determined under the rules promulgated by the interstate commission.

D. Kindergarten and first grade entrance age. Except as provided for elsewhere in this subsection D., students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level, including kindergarten, from a local education agency in the sending state at the time of transition. Provided however, that the provisions of section 33-201, Idaho Code, relating to requirements for kindergarten and first grade shall apply. A student who has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade

level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on his or her validated level from an accredited school in the sending state.

## ARTICLE V

### PLACEMENT AND ATTENDANCE

A. Course placement. When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes, but is not limited to, honors, international baccalaureate, advanced placement, vocational, technical and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s).

B. Educational program placement. The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state. Such programs include, but are not limited to: 1) gifted and talented programs; and 2) English as a second language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services. 1) In compliance with the federal requirements of the individuals with disabilities education act (IDEA), 20 U.S.C.A. section 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on his or her current individualized education program (IEP); and 2) In compliance with the requirements of section 504 of the rehabilitation act, 29 U.S.C.A. section 794, and with title II of the Americans with disabilities act, 42 U.S.C.A. sections 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or title II plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility. Local education agency administrative officials shall have flexibility in waiving course/program prerequisites, or other preconditions for placement in courses/programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities. A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

## ARTICLE VI

### ELIGIBILITY

A. Eligibility for enrollment.

1. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

3. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he or she was enrolled while residing with the custodial parent.

B. Eligibility for extracurricular participation. State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

## ARTICLE VII

### GRADUATION

In order to facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:

A. Waiver requirements. Local education agency administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams. States shall accept: 1) exit or end-of-course exams required for graduation from the sending state; or 2) national norm-referenced achievement tests; or 3) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her senior year, then the provisions of article VII, section C. shall apply.

C. Transfers during senior year. Should a military student transferring at the beginning or during his or her senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one (1) of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with sections A. and B. of this article.

## ARTICLE VIII

### STATE COORDINATION

A. Each member state shall, through the creation of a state council or use of an existing body or board, provide for the coordination among its

agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this compact and interstate commission activities. While each member state may determine the membership of its own state council, its membership must include at least: the state superintendent of education, a superintendent of a school district with a high concentration of military children, a representative from a military installation, one (1) representative each from the legislative and executive branches of government, and other offices and stakeholder groups the state council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the state council.

B. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated herein shall be ex officio members of the state council, unless either is already a full voting member of the state council.

## ARTICLE IX

### INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the interstate commission are the formation of public policy and are a discretionary state function. The interstate commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one (1) interstate commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the interstate commission is entitled to one (1) vote.

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the interstate commission, the governor or state council may delegate voting authority to another person from their state for a specified meeting.

4. The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication.

C. Consist of ex officio, nonvoting representatives who are members of interested organizations. Such ex officio members, as defined in the bylaws, may include, but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the United States department of defense, the education commission of the states, the interstate agreement on the qualification of educational personnel and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the interstate commission and such other members of the interstate commission as determined by the bylaws. Members of the executive committee shall serve a one (1) year term. Members of the executive committee shall be entitled to one (1) vote each. The executive committee shall have the power to act on behalf of the interstate commission, with the exception of rulemaking, during periods when the interstate commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The United States department of defense shall serve as an ex officio, nonvoting member of the executive committee.

F. Establish bylaws and rules that provide for conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds (2/3) vote that an open meeting would be likely to:

1. Relate solely to the interstate commission's internal personnel practices and procedures;
2. Disclose matters specifically exempted from disclosure by federal and state statute;
3. Disclose trade secrets or commercial or financial information which is privileged or confidential;
4. Involve accusing a person of a crime or formally censuring a person;
5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
6. Disclose investigative records compiled for law enforcement purposes; or
7. Specifically relate to the interstate commission's participation in a civil action or other legal proceeding.

H. Shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The interstate commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the interstate commission.

I. Shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. Shall create a process that permits military officials, education officials and parents to inform the interstate commission if and when there

are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the interstate commission or any member state.

## ARTICLE X

### POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission shall have the following powers:

- A. To provide for dispute resolution among member states.
- B. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact.
- C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules and actions.
- D. To enforce compliance with the compact provisions, the rules promulgated by the interstate commission, and the bylaws, using all necessary and proper means including, but not limited to, the use of judicial process.
- E. To establish and maintain offices which shall be located within one or more of the member states.
- F. To purchase and maintain insurance and bonds.
- G. To borrow, accept, hire or contract for services of personnel.
- H. To establish and appoint committees including, but not limited to, an executive committee as required by article IX, section E., which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder.
- I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.
- J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.
- K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.
- L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.
- M. To establish a budget and make expenditures.
- N. To adopt a seal and bylaws governing the management and operation of the interstate commission.
- O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission.
- P. To coordinate education, training and public awareness regarding the compact, its implementation and operation for officials and parents involved in such activity.
- Q. To establish uniform standards for the reporting, collecting and exchanging of data.
- R. To maintain corporate books and records in accordance with the bylaws.
- S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.



T. To provide for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

## ARTICLE XI

### ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The interstate commission shall, by a majority of the members present and voting, within twelve (12) months after the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact including, but not limited to:

1. Establishing the fiscal year of the interstate commission;
2. Establishing an executive committee and such other committees as may be necessary;
3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the interstate commission;
4. Providing reasonable procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each such meeting;
5. Establishing the titles and responsibilities of the officers and staff of the interstate commission;
6. Providing a mechanism for concluding the operations of the interstate commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations.
7. Providing "start up" rules for initial administration of the compact.

B. The interstate commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the interstate commission.

C. Executive committee, officers and personnel.

1. The executive committee shall have such authority and duties as may be set forth in the bylaws including, but not limited to:
  - a. Managing the affairs of the interstate commission in a manner consistent with the bylaws and purposes of the interstate commission;
  - b. Overseeing an organizational structure within, and appropriate procedures for, the interstate commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
  - c. Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the interstate commission.
2. The executive committee may, subject to the approval of the interstate commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the interstate commission may deem appropriate. The executive director

shall serve as secretary to the interstate commission, but shall not be a member of the interstate commission. The executive director shall hire and supervise such other persons as may be authorized by the interstate commission.

D. The interstate commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the interstate commission's executive director and employees or interstate commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The interstate commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend such interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

3. To the extent not covered by the state involved, member state, or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

## ARTICLE XII

### RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rulemaking authority. The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this act, or the powers granted hereun-

der, then such an action by the interstate commission shall be invalid and have no force or effect.

B. Rulemaking procedure. Rules shall be made pursuant to a rulemaking process that substantially conforms to the model state administrative procedure act of 1981, as amended, as may be appropriate to the operations of the interstate commission.

C. Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the interstate commission's authority.

D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

#### ARTICLE XIII

#### OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION

A. Oversight 1. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the interstate commission.

3. The interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, this compact or promulgated rules.

B. Default, technical assistance, suspension and termination. If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the interstate commission shall:

1. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default.

2. Provide remedial training and specific technical assistance regarding the default.

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been

exhausted. Notice of intent to suspend or terminate shall be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

5. The state which has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination, including obligations, the performance of which extends beyond the effective date of suspension or termination.

6. The interstate commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

7. The defaulting state may appeal the action of the interstate commission by petitioning the United States district court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

C. Dispute resolution. 1. The interstate commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and nonmember states.

2. The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement. 1. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. The interstate commission may, by majority vote of the members, initiate legal action in the United States district court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

#### ARTICLE XIV

##### FINANCING OF THE INTERSTATE COMMISSION

A. The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

B. The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

C. The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the inter-

state commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

#### ARTICLE XV

##### MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten (10) of the states. The effective date shall be no earlier than December 1, 2007. Thereafter, it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of the compact by all states.

C. The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

#### ARTICLE XVI

##### WITHDRAWAL AND DISSOLUTION

A. Withdrawal. 1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member jurisdiction.

3. The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

B. Dissolution of compact. 1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one (1) member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

#### ARTICLE XVII

##### SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

#### ARTICLE XVIII

##### BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other laws. 1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

B. Binding effect of the compact. 1. All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the member states.

2. All agreements between the interstate commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Approved April 9, 2013.

#### CHAPTER 302 (H.B. No. 327)

##### AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISIONS OF SERVICE INTEGRATION, WELFARE, AND MEDICALLY INDIGENT ADMINISTRATION FOR FISCAL YEAR 2014; 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; REQUIRING THE DIVISION OF WELFARE TO SUBMIT QUARTERLY FORECAST REPORTS; CLARIFYING FUNDING FOR MEDICAID READINESS; DIRECTING EXPENDITURES FOR HEAD START APPROPRIATIONS FROM TEMPORARY ASSISTANCE FOR NEEDY FAMILIES; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION; AND CLARIFYING 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, the following amounts to be expended 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
<b>I. SERVICE INTEGRATION:</b>				
FROM:				
Cooperative Welfare (General)				
Fund	\$772,600	\$124,900		\$897,500
Cooperative Welfare (Dedicated)				
Fund	19,500		\$50,000	69,500
Cooperative Welfare (Federal)				
Fund	<u>1,155,000</u>	<u>165,300</u>	<u>2,900,000</u>	<u>4,220,300</u>
TOTAL	\$1,947,100	\$290,200	\$2,950,000	\$5,187,300
<b>II. WELFARE, DIVISION OF:</b>				
<b>A. SELF-RELIANCE OPERATIONS:</b>				
FROM:				
Cooperative Welfare (General)				
Fund	\$13,879,600	\$5,631,500		\$19,511,100
Cooperative Welfare (Dedicated)				
Fund		3,176,700		3,176,700
Cooperative Welfare (Federal)				
Fund	<u>20,787,900</u>	<u>21,034,500</u>		<u>41,822,400</u>
TOTAL	\$34,667,500	\$29,842,700		\$64,510,200
<b>B. BENEFIT PAYMENTS:</b>				
FROM:				
Cooperative Welfare (General)				
Fund			\$19,677,500	\$19,677,500
Cooperative Welfare (Dedicated)				
Fund			250,200	250,200
Cooperative Welfare (Federal)				
Fund			<u>58,217,400</u>	<u>58,217,400</u>
TOTAL			\$78,145,100	\$78,145,100
DIVISION TOTAL	\$34,667,500	\$29,842,700	\$78,145,100	\$142,655,300
<b>III. MEDICALLY INDIGENT ADMINISTRATION:</b>				
FROM:				
Cooperative Welfare (General)				
Fund	\$120,900	\$15,100		\$136,000
GRAND TOTAL	\$36,735,500	\$30,148,000	\$81,095,100	\$147,978,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the divisions in the Department of Health and Welfare listed below is authorized no more than the number of full-time equivalent positions listed below at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Service Integration .....	36.00
Welfare .....	616.55
Medically Indigent Administration .....	1.10

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 classes during fiscal year 2014.

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. ACTUAL AND FORECAST DETAIL REPORTING. The Division of Welfare shall deliver the Self-Reliance Programs Forecast to the Legislative Services Office and Division of Financial Management no less than quarterly. The report shall include monthly caseload details for Temporary Assistance for Needy Families (TANF), Child Care, Medicaid, Aid to the Aged, Blind and Disabled, Food Stamps, and Child Support programs. The Self-Reliance Programs Forecast shall also include expenditure details for all of the named programs with the exception of Medicaid. The format of the report, and any additional information contained therein, shall be determined by the Legislative Services Office and Division of Financial Management.

SECTION 7. MEDICAID READINESS. It is the intent of the Legislature that funding provided for the Medicaid Readiness project in fiscal year 2014 support only the "mandatory" changes to the Medicaid program that are required by the Patient Protection and Affordable Care Act. Funding for the Medicaid Readiness project should not be construed as acceptance nor rejection of the "optional" expansion of the Medicaid program as identified in the June 28, 2012, Supreme Court Ruling in the case of National Federation of Independent Business v. Sebelius, Secretary of Health and Human Services.

SECTION 8. HEAD START APPROPRIATION FROM TEMPORARY ASSISTANCE FOR NEEDY FAMILY FUNDS. At a minimum, the Department of Health and Welfare is directed to maintain Head Start appropriations paid from federal Temporary Assistance for Needy Families funds at the same level as was paid to the Head Start Program in fiscal year 2007.

SECTION 9. EMPLOYEE COMPENSATION. The Legislature 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 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 10. CLARIFYING GUIDANCE ON EMPLOYEE COMPENSATION. Relating to the direction provided in Section 9 of this act, which encourages the use of "salary savings" for merit increases, reduced reliance on the General Fund for personnel costs resulting from changes in federal match rates are not considered "salary savings," and should not be considered for use as such. Any General Fund personnel cost savings resulting from changes in federal match rates should be identified by the Division of Welfare for discussion next legislative session.

Approved April 9, 2013.

CHAPTER 303  
(H.B. No. 328)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE PUBLIC HEALTH SERVICES DIVISION FOR FISCAL YEAR 2014; 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; DIRECTING MANAGEMENT REVIEW; 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, the following amounts to be expended 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 CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. PHYSICAL HEALTH SERVICES:					
FROM:					
Cooperative Welfare (General)					
Fund	\$1,299,200	\$1,546,200		\$1,084,600	\$3,930,000
Idaho Immunization Dedicated Vaccine					
Fund		7,200,000			7,200,000
Cancer Control					
Fund	50,100	228,200		123,400	401,700
Central Tumor Registry					
Fund				182,700	182,700
Cooperative Welfare (Dedicated)					
Fund	1,584,200	1,861,700		10,186,700	13,632,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare (Federal)					
Fund	<u>5,047,200</u>	<u>6,919,400</u>		<u>38,655,800</u>	<u>50,622,400</u>
TOTAL	\$7,980,700	\$17,755,500		\$50,233,200	\$75,969,400
II. EMERGENCY MEDICAL SERVICES:					
FROM:					
Emergency Medical Services					
Fund	\$1,518,800	\$909,100		\$220,000	\$2,647,900
Emergency Medical Services III					
Fund				1,400,000	1,400,000
Cooperative Welfare (Dedicated)					
Fund	240,600	341,300			581,900
Cooperative Welfare (Federal)					
Fund	<u>846,400</u>	<u>1,286,300</u>		<u>4,517,100</u>	<u>6,649,800</u>
TOTAL	\$2,605,800	\$2,536,700		\$6,137,100	\$11,279,600
III. LABORATORY SERVICES:					
FROM:					
Cooperative Welfare (General)					
Fund	\$1,426,000	\$488,200	\$120,000		\$2,034,200
Cooperative Welfare (Dedicated)					
Fund	432,200	199,300			631,500
Cooperative Welfare (Federal)					
Fund	<u>901,700</u>	<u>949,000</u>	<u>0</u>		<u>1,850,700</u>
TOTAL	\$2,759,900	\$1,636,500	\$120,000		\$4,516,400
GRAND TOTAL	\$13,346,400	\$21,928,700	\$120,000	\$56,370,300	\$91,765,400

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Public Health Services Division in the Department of Health and Welfare is authorized no more than two hundred fourteen and forty-five hundredths (214.45) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, 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 classes during fiscal year 2014.

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. MANAGEMENT REVIEW. As provided for in Idaho Code Section 67-702(c) the Audit Division of the Legislative Services Office will perform a management review of the Department of Health and Welfare, Division of Public Health Services, for the fiscal years ended June 30, 2011, and June 30, 2012. The review will evaluate compliance with appropriation legislation for the Division. Additionally, the review will identify potential accounting structure and staffing changes that would be necessary to convert from a single fund accounting process to a multi-fund structure that would differentiate between general, dedicated, and federal.

SECTION 7. EMPLOYEE COMPENSATION. The Legislature 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 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 April 9, 2013.

CHAPTER 304  
(H.B. No. 332)

AN ACT

RELATING TO THE FISCAL YEAR 2013 APPROPRIATION TO THE MEDICAL ASSISTANCE SERVICES DIVISION IN THE DEPARTMENT OF HEALTH AND WELFARE; REPEALING SECTION 6, CHAPTER 247, LAWS OF 2012, REMOVING REAPPROPRIATION AUTHORITY; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 6, Chapter 247, Laws of 2012, be, and the same is hereby repealed.

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, 2013.

Approved April 9, 2013.

CHAPTER 305  
(H.B. No. 333)

AN ACT

APPROPRIATING AND DIRECTING A TRANSFER FROM THE MISCELLANEOUS REVENUE FUND WITHIN THE DIVISION OF VETERANS SERVICES TO THE VETERANS RECOGNITION FUND; AND APPROPRIATING AND DIRECTING A TRANSFER FROM THE FEDERAL GRANT FUND WITHIN THE DIVISION OF VETERANS SERVICES TO THE VETERANS RECOGNITION FUND.

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

SECTION 1. There is hereby appropriated and the State Controller shall transfer \$12,114,300 from the Miscellaneous Revenue Fund within the Division of Veterans Services to the Veterans Recognition Fund on July 1, 2013, or as soon thereafter as is practicable.

SECTION 2. There is hereby appropriated and the State Controller shall transfer \$7,885,700 from the Federal Grant Fund within the Division of Veterans Services to the Veterans Recognition Fund on July 1, 2013, or as soon thereafter as is practicable.

Approved April 9, 2013.

CHAPTER 306  
(H.B. No. 334)

AN ACT

APPROPRIATING ADDITIONAL MONEYS FOR THE PUBLIC HEALTH SERVICES DIVISION IN THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 2014; AND PROVIDING LEGISLATIVE INTENT REGARDING CERTAIN VACCINES.

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 for the Physical Health Services Program in the Public Health Services Division in the Department of Health and Welfare \$10,620,000 from the Idaho Immunization Dedicated Vaccine Fund, to be expended for operating expenditures, for the period July 1, 2013, through June 30, 2014.

SECTION 2. LEGISLATIVE INTENT REGARDING TRICARE VACCINES. The Legislature recognizes the potential gap in coverage created by TRICARE's refusal to participate in the Idaho Immunization Program. The Legislature supports and encourages the executive branch in its efforts to negotiate a solution with TRICARE that does not rely on General Fund support. In the event that a negotiated solution cannot be reached by July 1, 2013, the Legislature supports a temporary fix that is consistent with the Governor's solution for fiscal year 2013.

Approved April 9, 2013.

CHAPTER 307  
(H.B. No. 335)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE IDAHO STATE CAPITOL COMMISSION FOR FISCAL YEAR 2014; MAKING AN ENDING BALANCE CASH TRANSFER; TRANSFERRING MONEYS FROM THE CAPITOL PERMANENT ENDOWMENT FUND; AND EXEMPTING APPROPRIATION OBJECT TRANSFER LIMITATIONS.

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

SECTION 1. There is hereby appropriated to the Department of Administration for the Idaho State Capitol Commission, 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 OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:			
Capitol Maintenance Reserve			
Fund	\$230,000	\$2,000,000	\$2,230,000
Capitol Commission Operating			
Fund	<u>103,000</u>	<u>0</u>	<u>103,000</u>
TOTAL	\$333,000	\$2,000,000	\$2,333,000

SECTION 2. ENDING BALANCE TRANSFER. The cash balance remaining in the Capitol Endowment Income Fund on June 30, 2013, shall be transferred to the Capitol Commission Operating Fund on July 1, 2013, or as soon after as practicable by the State Controller.

SECTION 3. There is hereby appropriated and the Endowment Fund Investment Board shall transfer \$1,000,000 from the Capitol Permanent Endowment Fund to the Capitol Maintenance Reserve Fund on July 1, 2013, or as soon thereafter as practicable.

SECTION 4. EXEMPTIONS FROM OBJECT TRANSFER LIMITATIONS. For fiscal year 2014, the Idaho State Capitol Commission, 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, 2013, through June 30, 2014. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

Approved April 9, 2013.

CHAPTER 308  
(H.B. No. 345)

AN ACT

RELATING TO APPROPRIATIONS AND TRANSFERS OF MONEYS; APPROPRIATING AND TRANSFERRING EXCESS FISCAL YEAR 2013 YEAR-END MONEYS FROM THE GENERAL FUND TO THE BUDGET STABILIZATION 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 any excess cash balance from the General Fund to the Budget Stabilization Fund upon the financial close of fiscal year 2013. When calculating any excess cash balance the State Controller shall provide for an ending balance of \$79,952,900 to be carried over into fiscal year 2014, plus encumbrances authorized by the Division of Financial Management, and any General Fund reappropriation authorized by the Legislature. The State Controller shall determine when the financial close of fiscal year 2013 is complete, and after consultation with the Division of Financial Management and the Legislative Services Office, shall notify the Governor and the Legislature of the amount transferred from the General Fund to the Budget Stabilization Fund.

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 April 9, 2013.

CHAPTER 309  
(S.B. No. 1172)

AN ACT

APPROPRIATING MONEYS TO THE LAVA HOT SPRINGS FOUNDATION FOR FISCAL YEAR 2014; 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 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, 2013, through June 30, 2014:

FOR:

Personnel Costs	\$951,900
Operating Expenditures	738,100
Capital Outlay	<u>422,600</u>
TOTAL	\$2,112,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Lava Hot Springs Foundation is authorized no more than twelve and eight-tenths (12.8) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, 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. The Legislature 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 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 April 9, 2013.

CHAPTER 310  
(S.B. No. 1173)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXEMPTING THE DEPARTMENT FROM CERTAIN TRANSFER LIMITATIONS; PROVIDING REAPPROPRIATION AUTHORITY FOR CERTAIN BALANCES; 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 Department of Parks and Recreation, the following amounts to be expended 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 CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT SERVICES:					
FROM:					
General					
Fund	\$333,100	\$252,300			\$585,400
Indirect Cost Recovery					
Fund	207,700	197,800	\$10,200		415,700
Parks and Recreation					
Fund	1,091,800	1,012,100	137,000	\$290,000	2,530,900
Recreational Fuels					
Fund	522,400	86,600		2,221,800	2,830,800
Parks and Recreation Registration					
Fund	391,500	145,800		4,601,200	5,138,500
Miscellaneous Revenue					
Fund		15,600			15,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant					
Fund	<u>0</u>	<u>2,600</u>	<u>0</u>	<u>1,997,100</u>	<u>1,999,700</u>
TOTAL	\$2,546,500	\$1,712,800	\$147,200	\$9,110,100	\$13,516,600
II. PARK OPERATIONS:					
FROM:					
General					
Fund	\$295,900	\$450,700			\$746,600
Indirect Cost Recovery					
Fund		2,400			2,400
Parks and Recreation					
Fund	3,662,000	1,365,800	\$177,400		5,205,200
Recreational Fuels					
Fund	126,600	244,600	1,338,400		1,709,600
Parks and Recreation Registration					
Fund	2,309,400	801,300	30,000	\$200,000	3,340,700
Miscellaneous Revenue					
Fund	49,000	76,500			125,500
Public Recreation Enterprise					
Fund	699,000	1,239,000			1,938,000
Parks and Recreation Expendable Trust					
Fund	482,400	405,600			888,000
Federal Grant					
Fund	<u>1,034,200</u>	<u>628,600</u>	<u>0</u>	<u>1,227,500</u>	<u>2,890,300</u>
TOTAL	\$8,658,500	\$5,214,500	\$1,545,800	\$1,427,500	\$16,846,300
III. CAPITAL DEVELOPMENT:					
FROM:					
Parks and Recreation					
Fund			\$636,000		\$636,000
Recreational Fuels					
Fund			725,000		725,000
Parks and Recreation Registration					
Fund			1,300,000		1,300,000
Public Recreation Enterprise					
Fund			315,000		315,000
Parks and Recreation Expendable Trust					
Fund			<u>108,000</u>		<u>108,000</u>
TOTAL			\$3,084,000		\$3,084,000
GRAND TOTAL	\$11,205,000	\$6,927,300	\$4,777,000	\$10,537,600	\$33,446,900



SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Parks and Recreation is authorized no more than one hundred forty-three and five-tenths (143.5) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, 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 PROGRAM TRANSFER LIMITATIONS. Notwithstanding Section 67-3511(2), Idaho Code, trustee and benefit payments for project grants in the Management Services Program may be transferred to the Capital Development Program to reflect project grants awarded to the Department of Parks and Recreation for the period July 1, 2013, through June 30, 2014. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 4. REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Department of Parks and Recreation any unexpended and unencumbered balances appropriated or reappropriated to the Department of Parks and Recreation for the Capital Development Program for fiscal year 2013 to be used for nonrecurring expenditures in that program for the period July 1, 2013, through June 30, 2014.

SECTION 5. LEGISLATIVE INTENT. It is the intent of the Legislature that \$1,300,000 appropriated in Section 1 of this act for the Capital Development Program for phase two of the Farragut State Park sewage collection system from the Recreational Vehicle Registration Fund established in Section 49-448, Idaho Code, supersedes the grant provisions of Section 67-4223(5), Idaho Code.

SECTION 6. EMPLOYEE COMPENSATION. The Legislature 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 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 April 9, 2013.

CHAPTER 311  
(S.B. No. 1174)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 2014; APPROPRIATING AND TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE BUSINESS AND JOBS DEVELOPMENT FUND; 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 Department of Commerce, 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	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$2,247,100	\$875,800	\$15,800	\$2,650,000	\$5,788,700
Business and Jobs Development					
Fund				3,000,000	3,000,000
Tourism and Promotion					
Fund	722,800	3,880,900	4,900	3,764,900	8,373,500
Miscellaneous Revenue					
Fund	122,900	157,400	500		280,800
Small Business Assistance					
Fund				50,000	50,000
Seminars and Publications					
Fund		378,400			378,400
Federal Grant					
Fund	<u>500,600</u>	<u>248,600</u>	<u>3,800</u>	<u>15,620,800</u>	<u>16,373,800</u>
TOTAL	\$3,593,400	\$5,541,100	\$25,000	\$25,085,700	\$34,245,200

SECTION 2. There is hereby appropriated and the State Controller shall transfer \$3,000,000 from the General Fund to the Business and Jobs Development Fund, on July 1, 2013, or as soon thereafter as practicable for the period July 1, 2013, through June 30, 2014.

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Commerce is authorized no more than fifty-three (53) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, 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. The Legislature 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 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 April 9, 2013.

CHAPTER 312  
(S.B. No. 1175)

AN ACT

APPROPRIATING MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2014; LIM-  
ITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PRO-  
VIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the State Tax Commission, the following amounts to be expended 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 CAPITAL OUTLAY	TOTAL
<b>I. GENERAL SERVICES:</b>				
FROM:				
General				
Fund	\$4,365,400	\$7,037,900	\$245,600	\$11,648,900
Multistate Tax Compact				
Fund		651,500	74,300	725,800
Administration and Accounting				
Fund	50,900	41,400	2,500	94,800
Administration Services for Transportation				
Fund	450,600	994,700	55,800	1,501,100
Seminars and Publications				
Fund	<u>0</u>	<u>9,100</u>	<u>0</u>	<u>9,100</u>
<b>TOTAL</b>	<b>\$4,866,900</b>	<b>\$8,734,600</b>	<b>\$378,200</b>	<b>\$13,979,700</b>
 <b>II. AUDIT AND COLLECTIONS:</b>				
FROM:				
General				
Fund	\$12,392,900	\$1,939,500		\$14,332,400
Multistate Tax Compact				
Fund	1,309,000	487,300		1,796,300
Administration and Accounting				
Fund	102,200	34,400		136,600
Administration Services for Transportation				
Fund	1,700,600	375,300		2,075,900
Federal Grant				
Fund	<u>0</u>	<u>8,000</u>		<u>8,000</u>
<b>TOTAL</b>	<b>\$15,504,700</b>	<b>\$2,844,500</b>		<b>\$18,349,200</b>

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
III. REVENUE OPERATIONS:				
FROM:				
General				
Fund	\$3,492,900	\$1,509,300	\$14,600	\$5,016,800
Multistate Tax Compact				
Fund		4,000	900	4,900
Administration and Accounting				
Fund	135,900	84,700		220,600
Administration Services for Transportation				
Fund	554,900	254,300	4,000	813,200
Seminars and Publications				
Fund	<u>0</u>	<u>14,400</u>	<u>0</u>	<u>14,400</u>
TOTAL	\$4,183,700	\$1,866,700	\$19,500	\$6,069,900
IV. PROPERTY TAX:				
FROM:				
General				
Fund	\$2,611,300	\$371,300		\$2,982,600
Seminars and Publications				
Fund	<u>0</u>	<u>131,000</u>	<u>\$8,800</u>	<u>139,800</u>
TOTAL	\$2,611,300	\$502,300	\$8,800	\$3,122,400
GRAND TOTAL	\$27,166,600	\$13,948,100	\$406,500	\$41,521,200

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Tax Commission is authorized no more than four hundred fifty-five (455) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, 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. The Legislature 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 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 April 9, 2013.

CHAPTER 313  
(S.B. No. 1176)

AN ACT

APPROPRIATING MONEYS TO THE CATASTROPHIC HEALTH CARE FUND AND DIRECTING A  
TRANSFER FOR FISCAL YEAR 2014.

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

SECTION 1. There is hereby appropriated to the Catastrophic Health Care Program \$34,830,100 from the General Fund to be transferred to the Catastrophic Health Care Fund for the period July 1, 2013, through June 30, 2014.

Approved April 9, 2013.

CHAPTER 314  
(S.B. No. 1177)

AN ACT

APPROPRIATING MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION FOR FISCAL  
YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSI-  
TIONS; 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 Superintendent of Public Instruction, 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	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$4,316,800	\$3,948,600		\$24,600	\$8,290,000
Indirect Cost Recovery					
Fund	668,900	523,700	\$180,000		1,372,600
Driver's Training					
Fund	161,700	150,300	3,400	2,113,300	2,428,700
Public Instruction					
Fund	636,900	848,100	17,400	11,400	1,513,800
Miscellaneous Revenue					
Fund	881,100	4,070,800	7,800		4,959,700
Federal Grant					
Fund	<u>4,569,400</u>	<u>12,437,500</u>	<u>18,000</u>	<u>82,200</u>	<u>17,107,100</u>
TOTAL	\$11,234,800	\$21,979,000	\$226,600	\$2,231,500	\$35,671,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Superintendent of Public Instruction is authorized no more than one hundred forty-two (142) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, 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. The Legislature 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 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 April 9, 2013.

CHAPTER 315  
(S.B. No. 1178)

AN ACT

APPROPRIATING MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION; PROVIDING LEGISLATIVE INTENT FOR THE USE OF CONFERENCE RELATED ACTIVITIES; AND PROVIDING LEGISLATIVE INTENT FOR THE PAYMENT OF BANK SERVICE FEES.

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

SECTION 1. There is hereby appropriated to the State Treasurer, 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:			
General			
Fund	\$847,400	\$508,100	\$1,355,500
State Treasurer LGIP			
Fund	378,600	113,500	492,100
Treasurer's Office - Professional Services			
Fund	378,700	141,000	519,700
Idaho Millennium Income			
Fund		80,000	80,000
Abandoned Property Trust - Unclaimed Property			
Fund	<u>563,500</u>	<u>278,300</u>	<u>841,800</u>
TOTAL	\$2,168,200	\$1,120,900	\$3,289,100

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Treasurer is authorized no more than twenty-six (26) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. STATE TREASURER LGIP FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the State Treasurer any unexpended and unencumbered balances of moneys appropriated to the State Treasurer from the State Treasurer LGIP Fund for fiscal year 2013, to be used for nonrecurring expenditures, for the period July 1, 2013, through June 30, 2014.

SECTION 4. EMPLOYEE COMPENSATION. The Legislature 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 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. CONFERENCE RELATED ACTIVITIES. It is the intent of the Legislature that no more than \$10,000 from the General Fund, as appropriated in Section 1 of this act, shall be spent on various conference related activities, including sponsorships, in-kind donations, and information booths. No moneys appropriated in Section 1 of this act from dedicated funds shall be used for conference related activities, unless otherwise allowed for in the Idaho Code.

SECTION 6. PAYMENT OF BANK SERVICE FEES. Of the amount appropriated in Section 1 of this act, \$435,900 or so much thereof as is necessary, is to be used solely and only for the payment of bank service fees for the period July 1, 2013, through June 30, 2014.

Approved April 9, 2013.

CHAPTER 316  
(S.B. No. 1180)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR SPECIAL PROGRAMS FOR FISCAL YEAR 2014; 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 State Board of Education and the Board of Regents of the University of Idaho, the following amounts to be expended 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 CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. FOREST UTILIZATION RESEARCH:</b>					
FROM:					
General					
Fund	\$569,200	\$93,300	\$4,900		\$667,400
<b>II. GEOLOGICAL SURVEY:</b>					
FROM:					
General					
Fund	\$683,700	\$16,000	\$7,200		\$706,900
<b>III. SCHOLARSHIPS AND GRANTS:</b>					
FROM:					
General					
Fund	\$58,100			\$6,663,300	\$6,721,400
Federal Grant					
Fund	<u>17,200</u>	<u>\$1,000</u>		<u>1,704,600</u>	<u>1,722,800</u>
TOTAL	\$75,300	\$1,000		\$8,367,900	\$8,444,200
<b>IV. MUSEUM OF NATURAL HISTORY:</b>					
FROM:					
General					
Fund	\$442,700	\$13,800	\$20,100		\$476,600
<b>V. SMALL BUSINESS DEVELOPMENT CENTERS:</b>					
FROM:					
General					
Fund	\$248,800				\$248,800
<b>VI. TECHHELP:</b>					
FROM:					
General					
Fund	\$144,400				\$144,400
GRAND TOTAL	\$2,164,100	\$124,100	\$32,200	\$8,367,900	\$10,688,300

**SECTION 2. FTP AUTHORIZATION.** In accordance with Section 67-3519, Idaho Code, each of the programs in the State Board of Education and the Board of Regents of the University of Idaho specified in this section is authorized no more than the number of full-time equivalent positions shown at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Forest Utilization Research .....	5.88
Geological Survey .....	9.78
Scholarships and Grants .....	1.35



Museum of Natural History .....	7.20
Small Business Development Centers .....	3.87
TechHelp .....	1.75

SECTION 3. EMPLOYEE COMPENSATION. The Legislature 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 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. Institutions are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved April 9, 2013.

CHAPTER 317  
(S.B. No. 1181)

AN ACT

RELATING TO APPROPRIATIONS, DISTRIBUTIONS AND TRANSFERS OF IDAHO MILLENNIUM FUNDS; APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT SERVICES PROGRAM FOR FISCAL YEAR 2014; APPROPRIATING MONEYS TO THE SUPREME COURT FOR YOUTH COURTS, TOBACCO AND ALCOHOL DIVERSION COURTS, AND STATUS OFFENDER SERVICES FOR FISCAL YEAR 2014; APPROPRIATING MONEYS TO THE STATE TREASURER FOR DISTRIBUTION TO THE ALLUMBAUGH HOUSE FOR FISCAL YEAR 2014; APPROPRIATING MONEYS TO THE OFFICE OF DRUG POLICY FOR FISCAL YEAR 2014; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE WOMEN'S HEALTH CHECK PROGRAM FOR FISCAL YEAR 2014; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE PHYSICAL HEALTH SERVICES PROGRAM FOR FISCAL YEAR 2014; APPROPRIATING MONEYS TO THE IDAHO STATE POLICE FOR TOBACCO PERMITTEE COMPLIANCE INSPECTIONS FOR FISCAL YEAR 2014; APPROPRIATING MONEYS TO THE PUBLIC HEALTH DISTRICTS FOR THE PUBLIC HEALTH DISTRICT MILLENNIUM FUND CESSATION PROGRAM FOR FISCAL YEAR 2014; APPROPRIATING MONEYS TO THE STATE TREASURER FOR DISTRIBUTION TO THE AMERICAN LUNG ASSOCIATION IN IDAHO FOR YOUTH TOBACCO PREVENTION SERVICES FOR FISCAL YEAR 2014; APPROPRIATING MONEYS TO THE STATE TREASURER FOR DISTRIBUTION TO THE IDAHO DRUG FREE YOUTH PROGRAM FOR PARENT AND TEEN PREVENTION EDUCATION FOR FISCAL YEAR 2014; APPROPRIATING MONEYS TO THE STATE TREASURER FOR DISTRIBUTION TO THE IDAHO METH PROJECT FOR FISCAL YEAR 2014; PROVIDING THAT CERTAIN UNEXPENDED AND UNENCUMBERED BALANCE OF MONEYS SHALL REVERT TO THE IDAHO MILLENNIUM INCOME FUND AT THE END OF FISCAL YEAR 2014; AND TRANSFERRING ANY REMAINING UNEXPENDED AND UNENCUMBERED BALANCE OF MONEYS IN THE IDAHO MILLENNIUM INCOME FUND TO THE IDAHO MILLENNIUM PERMANENT ENDOWMENT FUND AT THE END OF FISCAL YEAR 2014.

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

SECTION 1. There is hereby appropriated and, at the request of the State Treasurer, the State Controller shall transfer \$1,859,200 from the Idaho Millennium Income Fund to the Department of Correction for the Community-Based Substance Abuse Treatment Services program, for the period July 1, 2013, through June 30, 2014. The purpose of this grant is to continue

coordination, assessment and community-based substance abuse treatment and recovery support services for felony offenders, in lieu of incarceration in a state facility.

SECTION 2. There is hereby appropriated and, at the request of the State Treasurer, the State Controller shall transfer \$450,000 from the Idaho Millennium Income Fund to the Supreme Court for the period July 1, 2013, through June 30, 2014. The purpose of this grant is to support youth courts, tobacco and alcohol diversion courts to handle underage misdemeanor tobacco and alcohol cases, and programs for tobacco and substance abuse status offenders.

SECTION 3. There is hereby appropriated \$113,000 from the Idaho Millennium Income Fund to the State Treasurer, for distribution to the Allumbaugh House partnership for the period July 1, 2013, through June 30, 2014. The purpose of this grant is to sustain detoxification and crisis mental health services and financial commitments from state and local government and private partners in fiscal year 2014.

SECTION 4. There is hereby appropriated and, at the request of the State Treasurer, the State Controller shall transfer \$627,600 from the Idaho Millennium Income Fund to the Office of Drug Policy for the period July 1, 2013, through June 30, 2014. The purpose of this grant is to implement a statewide "Lock Your Meds" media campaign designed to educate Idahoans about the dangers of prescription drug abuse.

SECTION 5. On behalf of the American Cancer Society, Cancer Action Network, there is hereby appropriated and, at the request of the State Treasurer, the State Controller shall transfer \$245,000 from the Idaho Millennium Income Fund to the Department of Health and Welfare for the Division of Public Health, Bureau of Clinical and Preventive Services, for the period July 1, 2013, through June 30, 2014. The purpose of this grant is to support breast and cervical cancer early detection efforts of the Idaho Women's Health Check program for qualifying low-income, uninsured or underinsured women. It will also be used to assess tobacco use history of all enrolled clients, referring those who use tobacco to Idaho's QuitLine, QuitNet or other tobacco cessation resources.

SECTION 6. There is hereby appropriated and, at the request of the State Treasurer, the State Controller shall transfer \$2,000,000 from the Idaho Millennium Income Fund to the Department of Health and Welfare for the Physical Health Services program for the period July 1, 2013, through June 30, 2014. The purpose of this grant is to support Project Filter's counter-marketing campaign, the telephone and online cessation programs, and the nicotine replacement therapy program.

SECTION 7. There is hereby appropriated and, at the request of the State Treasurer, the State Controller shall transfer \$94,000 from the Idaho Millennium Income Fund to the Idaho State Police for Law Enforcement programs to be expended for the period July 1, 2013, through June 30, 2014. The purpose of this grant is to assist the Idaho State Police and the Department of Health and Welfare with the cost of tobacco permittee compliance inspections as required by law.

SECTION 8. There is hereby appropriated and, at the request of the State Treasurer, the State Controller shall transfer \$500,000 from the Idaho Millennium Income Fund to the Public Health Districts for the period July 1, 2013, through June 30, 2014. The purpose of this grant is to continue the Public Health District Millennium Fund cessation program. Through this program, high-quality, best practice tobacco cessation programs are provided

statewide at no cost to Idahoans who want to quit smoking, with a primary emphasis on youth and pregnant women.

SECTION 9. There is hereby appropriated \$180,600 from the Idaho Millennium Income Fund to the State Treasurer for distribution to the American Lung Association in Idaho for the period July 1, 2013, through June 30, 2014. The purpose of this grant is to provide youth tobacco prevention services to Idaho youth. The appropriation includes \$120,700 to fund three American Lung Association programs statewide: Teens Against Tobacco Use (TATU), to train teens in grades 8 through 12 to provide tobacco prevention presentations in grades 4 through 7; Support Teens Against Nicotine Dependency (STAND), which provides mini-grants, training and technical support to Idaho youth groups to engage in community awareness and policy improvement projects regarding tobacco; and adult facilitator training for Not-On-Tobacco (N-O-T), a smoking cessation program designed specifically for youth under the age of 18 years. The remaining funds will be used to support the Idaho Academy of Family Physicians program TAR WARS, which engages medical professionals and anti-tobacco advocates to provide tobacco prevention presentations to Idaho students in grade 5 throughout the state.

SECTION 10. There is hereby appropriated \$150,000 from the Idaho Millennium Income Fund to the State Treasurer for distribution to the Idaho Drug Free Youth program for the period July 1, 2013, through June 30, 2014. The purpose of this grant is to implement a multifaceted parent and teen prevention education program called i2i to educate Idaho parents, together with their teens, about alcohol and other drugs and the damage that substances can do to the underdeveloped teen brain.

SECTION 11. There is hereby appropriated \$270,000 from the Idaho Millennium Income Fund to the State Treasurer for distribution to the Idaho Meth Project for the period July 1, 2013, through June 30, 2014. The purpose of this grant is to provide the resources necessary to support the expansion of the ASK MethProject.org campaign, both in the digital world and in the classroom. This includes media campaign development, website development, meth education resources to Idaho's health teachers and related evaluation tools.

SECTION 12. Notwithstanding any other provision of law to the contrary, on June 30, 2014, or as soon thereafter as is practicable, any remaining unexpended and unencumbered balance of moneys appropriated in Sections 1, 2, 4, 5, 6, 7 and 8 of this act shall be reverted to the Idaho Millennium Income Fund.

SECTION 13. Notwithstanding any other provision of law to the contrary, on June 30, 2014, or as soon thereafter as is practicable, the State Controller, at the request of the State Treasurer, shall transfer any remaining unexpended and unencumbered balance of moneys in the Idaho Millennium Income Fund to the Idaho Millennium Permanent Endowment Fund.

Approved April 9, 2013.

CHAPTER 318  
(S.B. No. 1182)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2013; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS FOR FISCAL YEAR 2013; APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXEMPTING A PORTION OF THE APPROPRIATION FROM PROGRAM TRANSFER LIMITATIONS; 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 3, Chapter 243, Laws of 2012, and any other appropriation provided for by law, there is hereby appropriated to the Department of Correction, the following amounts to be expended for the designated divisions, programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
<b>I. MANAGEMENT SERVICES:</b>				
FROM:				
General				
Fund		\$213,900		\$213,900
Miscellaneous Revenue				
Fund	\$131,800	3,200	\$1,500	136,500
TOTAL	\$131,800	\$217,100	\$1,500	\$350,400
<b>II. STATE PRISONS:</b>				
<b>A. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:</b>				
FROM:				
General				
Fund	\$326,000	\$25,400	\$26,600	\$378,000
<b>B. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:</b>				
FROM:				
Miscellaneous Revenue				
Fund		\$136,500		\$136,500
<b>C. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:</b>				
FROM:				
General				
Fund		\$79,600	\$7,400	\$87,000
DIVISION TOTAL	\$326,000	\$241,500	\$34,000	\$601,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
III. COUNTY & OUT-OF-STATE PLACEMENT:				
FROM:				
General				
Fund		\$6,500,000	\$2,800	\$6,502,800
Miscellaneous Revenue				
Fund	\$72,900	0	0	72,900
TOTAL	\$72,900	\$6,500,000	\$2,800	\$6,575,700

## IV. EDUCATION &amp; TREATMENT:

FROM:

Miscellaneous Revenue

Fund	\$87,700		\$48,100	\$135,800
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## V. MEDICAL SERVICES:

FROM:

General

Fund		\$618,100	\$180,800	\$798,900
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GRAND TOTAL	\$618,400	\$7,576,700	\$267,200	\$8,462,300
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SECTION 2. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Department of Correction in Section 4, Chapter 243, Laws of 2012, is increased by twenty-nine (29) for the period July 1, 2012, through June 30, 2013.

SECTION 3. There is hereby appropriated to the Department of Correction, the following amounts to be expended according to the designated divisions, 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	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT SERVICES:					
FROM:					
General					
Fund	\$7,256,400	\$3,072,000	\$484,700		\$10,813,100
Inmate Labor					
Fund	36,300				36,300
Parolee Supervision					
Fund	164,900	92,300			257,200
Miscellaneous Revenue					
Fund	480,300	96,400			576,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant					
Fund	<u>0</u>	<u>414,000</u>	<u>0</u>		<u>414,000</u>
TOTAL	\$7,937,900	\$3,674,700	\$484,700		\$12,097,300
II. STATE PRISONS:					
A. PRISONS ADMINISTRATION:					
FROM:					
General					
Fund	\$692,600	\$61,300			\$753,900
Miscellaneous Revenue					
Fund	<u>165,000</u>	<u>53,900</u>			<u>218,900</u>
TOTAL	\$857,600	\$115,200			\$972,800
B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General					
Fund	\$18,778,400	\$3,259,200	\$121,700		\$22,159,300
Inmate Labor					
Fund		47,200			47,200
Miscellaneous Revenue					
Fund	545,300	138,400			683,700
Penitentiary Endowment Income					
Fund		844,400	75,500		919,900
Federal Grant					
Fund	<u>143,600</u>	<u>0</u>	<u>0</u>		<u>143,600</u>
TOTAL	\$19,467,300	\$4,289,200	\$197,200		\$23,953,700
C. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General					
Fund	\$6,566,900	\$1,380,000			\$7,946,900
Inmate Labor					
Fund	896,100	640,700			1,536,800
Miscellaneous Revenue					
Fund	53,000	53,000			106,000
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>30,000</u>	<u>\$26,100</u>		<u>56,100</u>
TOTAL	\$7,516,000	\$2,103,700	\$26,100		\$9,645,800
D. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General					
Fund	\$4,016,200	\$962,700			\$4,978,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Inmate Labor					
Fund		32,600			32,600
Miscellaneous Revenue					
Fund	46,900	141,000			187,900
Penitentiary Endowment Income					
Fund		22,900			22,900
Federal Grant					
Fund	<u>0</u>	<u>300,000</u>	<u>\$500,000</u>		<u>800,000</u>
TOTAL	\$4,063,100	\$1,459,200	\$500,000		\$6,022,300

## E. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:

## FROM:

## General

Fund	\$5,362,700	\$1,631,200	\$28,100		\$7,022,000
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## Inmate Labor

Fund	905,100	453,000	102,600		1,460,700
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## Miscellaneous Revenue

Fund	91,500	47,600			139,100
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## Penitentiary Endowment Income

Fund		35,500	75,900		111,400
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## Federal Grant

Fund	<u>57,500</u>	<u>0</u>	<u>0</u>		<u>57,500</u>
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TOTAL	\$6,416,800	\$2,167,300	\$206,600		\$8,790,700
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## F. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:

## FROM:

## General

Fund	\$8,502,600	\$1,861,400	\$44,300		\$10,408,300
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## Inmate Labor

Fund		23,600			23,600
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## Miscellaneous Revenue

Fund	57,300	50,300			107,600
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## Penitentiary Endowment Income

Fund	<u>0</u>	<u>27,500</u>	<u>18,800</u>		<u>46,300</u>
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TOTAL	\$8,559,900	\$1,962,800	\$63,100		\$10,585,800
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## G. ST. ANTHONY WORK CAMP:

## FROM:

## General

Fund	\$1,882,400	\$403,100			\$2,285,500
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## Inmate Labor

Fund	782,000	511,800	\$59,100		1,352,900
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	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>Miscellaneous Revenue</b>					
Fund		16,000			16,000
<b>Penitentiary Endowment Income</b>					
Fund	<u>0</u>	<u>6,100</u>	<u>48,800</u>		<u>54,900</u>
<b>TOTAL</b>	<b>\$2,664,400</b>	<b>\$937,000</b>	<b>\$107,900</b>		<b>\$3,709,300</b>
 <b>H. POCA TELLO WOMEN'S CORRECTIONAL CENTER:</b>					
<b>FROM:</b>					
<b>General</b>					
Fund	\$4,559,800	\$830,900			\$5,390,700
<b>Inmate Labor</b>					
Fund	252,900	118,100	\$20,500		391,500
<b>Miscellaneous Revenue</b>					
Fund	224,800	20,500			245,300
<b>Penitentiary Endowment Income</b>					
Fund	<u>0</u>	<u>18,300</u>	<u>112,100</u>		<u>130,400</u>
<b>TOTAL</b>	<b>\$5,037,500</b>	<b>\$987,800</b>	<b>\$132,600</b>		<b>\$6,157,900</b>
 <b>I. SOUTH BOISE WOMEN'S CORRECTIONAL CENTER:</b>					
<b>FROM:</b>					
<b>General</b>					
Fund	\$2,767,400	\$629,800			\$3,397,200
<b>Miscellaneous Revenue</b>					
Fund		5,200			5,200
<b>Penitentiary Endowment Income</b>					
Fund	<u>0</u>	<u>15,100</u>	<u>\$21,200</u>		<u>36,300</u>
<b>TOTAL</b>	<b>\$2,767,400</b>	<b>\$650,100</b>	<b>\$21,200</b>		<b>\$3,438,700</b>
 <b>DIVISION TOTAL</b>					
	<b>\$57,350,000</b>	<b>\$14,672,300</b>	<b>\$1,254,700</b>		<b>\$73,277,000</b>
 <b>III. PRIVATE PRISONS:</b>					
<b>FROM:</b>					
<b>General</b>					
Fund		\$29,901,300			\$29,901,300
 <b>IV. COUNTY &amp; OUT-OF-STATE PLACEMENT:</b>					
<b>FROM:</b>					
<b>General</b>					
Fund		\$13,580,000			\$13,580,000
<b>Federal Grant</b>					
Fund		<u>83,700</u>			<u>83,700</u>
<b>TOTAL</b>		<b>\$13,663,700</b>			<b>\$13,663,700</b>



	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>V. CORRECTIONAL ALTERNATIVE PLACEMENT:</b>					
FROM:					
General					
Fund		\$8,314,000	\$802,300		\$9,116,300
Miscellaneous Revenue					
Fund		<u>200,000</u>	<u>0</u>		<u>200,000</u>
TOTAL		\$8,514,000	\$802,300		\$9,316,300
<b>VI. COMMUNITY CORRECTIONS:</b>					
<b>A. COMMUNITY SUPERVISION:</b>					
FROM:					
General					
Fund	\$11,958,600	\$1,024,600	\$131,900		\$13,115,100
Parolee Supervision					
Fund	5,407,600	1,154,800			6,562,400
Drug and Mental Health Court Supervision					
Fund	405,500	27,200	126,000		558,700
Federal Grant					
Fund	<u>50,800</u>	<u>73,800</u>	<u>0</u>		<u>124,600</u>
TOTAL	\$17,822,500	\$2,280,400	\$257,900		\$20,360,800
<b>B. COMMUNITY WORK CENTERS:</b>					
FROM:					
General					
Fund	\$2,407,400	\$1,600	\$124,000		\$2,533,000
Inmate Labor					
Fund	597,600	1,120,800			1,718,400
Miscellaneous Revenue					
Fund	<u>0</u>	<u>29,700</u>	<u>0</u>		<u>29,700</u>
TOTAL	\$3,005,000	\$1,152,100	\$124,000		\$4,281,100
DIVISION TOTAL	\$20,827,500	\$3,432,500	\$381,900		\$24,641,900
<b>VII. EDUCATION &amp; TREATMENT:</b>					
<b>A. OFFENDER PROGRAMS:</b>					
FROM:					
General					
Fund	\$1,568,200	\$869,600			\$2,437,800
Inmate Labor					
Fund		84,100			84,100
Miscellaneous Revenue					
Fund	180,800	59,500			240,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant					
Fund	<u>398,200</u>	<u>852,700</u>			<u>1,250,900</u>
TOTAL	\$2,147,200	\$1,865,900			\$4,013,100
B. COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT:					
FROM:					
General					
Fund	\$1,465,700	\$67,300		\$4,016,200	\$5,549,200
DIVISION TOTAL	\$3,612,900	\$1,933,200		\$4,016,200	\$9,562,300
VIII. MEDICAL SERVICES:					
FROM:					
General					
Fund		\$27,138,600			\$27,138,600
Miscellaneous Revenue					
Fund		<u>81,000</u>			<u>81,000</u>
TOTAL		\$27,219,600			\$27,219,600
GRAND TOTAL	\$89,728,300	\$103,011,300	\$2,923,600	\$4,016,200	\$199,679,400

SECTION 4. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Correction is authorized no more than one thousand five hundred ninety-two and ninety-three hundredths (1,592.93) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 5. EXEMPTIONS FROM PROGRAM TRANSFER LIMITATIONS. For fiscal year 2013, the Department of Correction is hereby exempted from the provisions of Section 67-3511(2), Idaho Code, allowing unlimited transfers between and among the Private Prisons, County and Out-of-State Placement, Correctional Alternative Placement and Medical Services programs, for all General Fund moneys appropriated to those programs for the period July 1, 2013, through June 30, 2014. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 6. EMPLOYEE COMPENSATION. The Legislature 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 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 7. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 9, 2013.

CHAPTER 319  
(S.B. No. 1183)

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 2014; 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, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WASHINGTON-IDAHO VETERINARY EDUCATION:					
FROM:					
General					
Fund	\$520,200	\$1,276,500	\$59,100		\$1,855,800
Restricted					
Fund	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$100,000</u>	<u>100,000</u>
TOTAL	\$520,200	\$1,276,500	\$59,100	\$100,000	\$1,955,800

II. WWAMI MEDICAL EDUCATION:

FROM:

General

Fund	\$571,800	\$48,600		\$2,958,900	\$3,579,300
Unrestricted (Uncontrolled)					
Fund	<u>401,400</u>	<u>270,000</u>		<u>0</u>	<u>671,400</u>
TOTAL	\$973,200	\$318,600		\$2,958,900	\$4,250,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. IDAHO DENTAL EDUCATION PROGRAM:					
FROM:					
General					
Fund	\$223,400			\$1,231,800	\$1,455,200
Unrestricted					
Fund	<u>157,300</u>	<u>\$25,000</u>	<u>\$5,500</u>	<u>0</u>	<u>187,800</u>
TOTAL	\$380,700	\$25,000	\$5,500	\$1,231,800	\$1,643,000
IV. UNIVERSITY OF UTAH MEDICAL EDUCATION:					
FROM:					
General					
Fund				\$1,283,200	\$1,283,200
V. FAMILY MEDICAL RESIDENCIES:					
FROM:					
General					
Fund	\$583,600	\$321,600		\$1,118,700	\$2,023,900
VI. BOISE INTERNAL MEDICINE:					
FROM:					
General					
Fund				\$240,000	\$240,000
VII. PSYCHIATRY EDUCATION:					
FROM:					
General					
Fund				\$121,400	\$121,400
GRAND TOTAL	\$2,457,700	\$1,941,700	\$64,600	\$7,054,000	\$11,518,000

SECTION 2. EMPLOYEE COMPENSATION. The Legislature 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 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. Institutions 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, 2013, through June 30, 2014, 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 2014, the State Board of Education and the Board of Regents of the University of Idaho for the WWAMI Medical Education Program 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, 2013, through June 30, 2014. 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 reappropriated to the State Board of Education and the Board of Regents of the University of Idaho for the WWAMI Medical Education Program and the Idaho Dental Education Program any unexpended and unencumbered balances of moneys categorized as dedicated funds as appropriated for fiscal year 2013, to be used for nonrecurring expenditures, for the period July 1, 2013, through June 30, 2014.

Approved April 9, 2013.

CHAPTER 320  
(S.B. No. 1186)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR COLLEGE AND UNIVERSITIES AND THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2014; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION; PROVIDING NON-GENERAL FUND REAPPROPRIATION; PROVIDING LEGISLATIVE INTENT FOR SYSTEMWIDE NEEDS; PROVIDING LEGISLATIVE INTENT FOR UNIVERSITY RESEARCH; PROVIDING LEGISLATIVE INTENT FOR THE USE OF GENERAL FUNDS; PROVIDING LEGISLATIVE INTENT ON THE ALLOCATION OF FUNDS; AND EXEMPTING APPROPRIATION OBJECT AND PROGRAM TRANSFER LIMITATIONS.

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 college and universities, and the Office of the State Board of Education, the following amounts to be expended 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 CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BOISE STATE UNIVERSITY:					
FROM:					
General					
Fund	\$64,506,300	\$7,680,800	\$3,757,800		\$75,944,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Unrestricted					
Fund	<u>58,015,700</u>	<u>17,931,000</u>	<u>888,600</u>		<u>76,835,300</u>
TOTAL	\$122,522,000	\$25,611,800	\$4,646,400		\$152,780,200
II. IDAHO STATE UNIVERSITY:					
FROM:					
General					
Fund	\$63,254,100	\$1,286,500			\$64,540,600
Charitable Institutions Endowment Income					
Fund	892,800				892,800
Normal School Endowment Income					
Fund	1,335,000				1,335,000
Unrestricted					
Fund	<u>29,069,100</u>	<u>20,764,500</u>	<u>\$6,360,700</u>		<u>56,194,300</u>
TOTAL	\$94,551,000	\$22,051,000	\$6,360,700		\$122,962,700
III. UNIVERSITY OF IDAHO:					
FROM:					
General					
Fund	\$66,880,700	\$6,299,100	\$3,534,100		\$76,713,900
Agricultural College Endowment Income					
Fund	690,000	47,400	229,800		967,200
Scientific School Endowment Income					
Fund	2,489,300		849,100		3,338,400
University Endowment Income					
Fund	2,007,100	186,800	666,900		2,860,800
Unrestricted					
Fund	<u>38,635,800</u>	<u>33,659,700</u>	<u>802,700</u>		<u>73,098,200</u>
TOTAL	\$110,702,900	\$40,193,000	\$6,082,600		\$156,978,500
IV. LEWIS-CLARK STATE COLLEGE:					
FROM:					
General					
Fund	\$11,733,800	\$1,292,900	\$434,000		\$13,460,700
Normal School Endowment Income					
Fund		1,335,000			1,335,000
Unrestricted					
Fund	<u>9,552,400</u>	<u>2,949,000</u>	<u>0</u>		<u>12,501,400</u>
TOTAL	\$21,286,200	\$5,576,900	\$434,000		\$27,297,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. SYSTEMWIDE:					
FROM:					
General					
Fund	\$1,365,400	\$1,085,100		\$3,433,000	\$5,883,500
GRAND TOTAL	\$350,427,500	\$94,517,800	\$17,523,700	\$3,433,000	\$465,902,000

SECTION 2. EMPLOYEE COMPENSATION. The Legislature 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 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. Institutions are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

SECTION 3. NON-GENERAL FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the State Board of Education and the Board of Regents of the University of Idaho for college and universities any unexpended and unencumbered balances of moneys categorized as dedicated funds appropriated for fiscal year 2013, to be used for nonrecurring expenditures, for the period July 1, 2013, through June 30, 2014.

SECTION 4. LEGISLATIVE INTENT. It is the intent of the Legislature that of the amount appropriated from the General Fund in Section 1, Subsection V. of this act, the following amounts may be used as follows: (1) An amount not to exceed \$140,000 may be used by the Office of the State Board of Education for systemwide needs; (2) An amount of approximately \$1,435,500 may be used for the mission and goals of the Higher Education Research Council as outlined in State Board of Education policy III.W., which includes awards for infrastructure, matching grants, and competitive grants through the Idaho Incubation Fund program; and (3) An amount not to exceed \$942,600 may be used by the State Board of Education for instructional projects designed to foster innovative learning approaches using technology, to promote accountability and information transfer throughout the higher education system including longitudinal student-level data and program/course transferability, and to promote the Idaho Electronic Campus.

SECTION 5. LEGISLATIVE INTENT. It is the intent of the Legislature that of the amount appropriated from the General Fund in Section 1, Subsection V. of this act, up to \$2,000,000 may be awarded for competitive state university research under the direction of the Higher Education Research Council to support the goals of the Idaho Global Entrepreneurial Mission (IGEM) University Research Initiative. These funds are envisioned as seed funding for strengthening Idaho's future by strategically investing in the development of expertise, products, and services that result in state economic growth. Selected project proposals are expected to exhibit high potential for near term technology transfer to the private sector. The State Board of Education shall establish guidelines for submission, review, approval, and project reporting requirements. It is the intent of the Legislature that the State

Board of Education shall report to the Joint Finance-Appropriations Committee no later than February 1, 2014 regarding the allocation and use of funds through the Systemwide Program.

SECTION 6. LEGISLATIVE INTENT. It is the intent of the Legislature that of the amount appropriated from the General Fund in Section 1, Subsection V. of this act, \$1,365,400 of ongoing funds shall be allocated by the State Board of Education towards enrollment workload adjustment costs.

SECTION 7. LEGISLATIVE INTENT. It is the responsibility of the State Board of Education to allocate funding appropriated in this act toward achieving an equitable distribution among the college and universities.

SECTION 8. EXEMPTIONS FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS. For fiscal year 2014, the State Board of Education and the Board of Regents of the University of Idaho for college and universities 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, 2013, through June 30, 2014. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

Approved April 9, 2013.

CHAPTER 321  
(S.B. No. 1187)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION; AND PROVIDING FEDERAL FUND REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Office of the State Board of Education, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR	FOR	FOR	FOR	TOTAL
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	
				PAYMENTS	
I. OSBE ADMINISTRATION:					
FROM:					
General					
Fund	\$1,586,700	\$500,500	\$10,400		\$2,097,600
Indirect Cost Recovery					
Fund	31,300	83,900			115,200
Miscellaneous Revenue					
Fund	80,000	30,000		\$50,000	160,000



	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant					
Fund	<u>137,500</u>	<u>1,446,100</u>	<u>0</u>	<u>1,138,400</u>	<u>2,722,000</u>
TOTAL	\$1,835,500	\$2,060,500	\$10,400	\$1,188,400	\$5,094,800

## II. CHARTER SCHOOL COMMISSION:

## FROM:

## General

Fund	\$221,100	\$92,800			\$313,900
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GRAND TOTAL	\$2,056,600	\$2,153,300	\$10,400	\$1,188,400	\$5,408,700
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SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of the State Board of Education is authorized no more than twenty-two and seventy-five hundredths (22.75) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, 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. The Legislature 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 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 4. FEDERAL FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Office of the State Board of Education any unexpended and unencumbered balances of moneys categorized as federal funds as appropriated for fiscal year 2013, to be used for nonrecurring expenditures, for the period July 1, 2013, through June 30, 2014.

Approved April 9, 2013.

CHAPTER 322  
(S.B. No. 1188)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR COMMUNITY COLLEGES  
FOR 2014; AND EXEMPTING APPROPRIATION OBJECT AND PROGRAM TRANSFER LIMITATIONS.

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

SECTION 1. There is hereby appropriated to the State Board of Education for Community Colleges, the following amounts to be expended 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 CAPITAL OUTLAY	TOTAL
I. COLLEGE OF SOUTHERN IDAHO (CSI):				
FROM:				
General				
Fund	\$9,498,500	\$1,545,800	\$903,900	\$11,948,200
Community College				
Fund	<u>158,500</u>	<u>27,100</u>	<u>15,200</u>	<u>200,800</u>
TOTAL	\$9,657,000	\$1,572,900	\$919,100	\$12,149,000
II. COLLEGE OF WESTERN IDAHO:				
FROM:				
General				
Fund	\$5,196,200	\$3,052,600		\$8,248,800
Community College				
Fund	<u>0</u>	<u>205,700</u>		<u>205,700</u>
TOTAL	\$5,196,200	\$3,258,300		\$8,454,500
III. NORTH IDAHO COLLEGE (NIC):				
FROM:				
General				
Fund	\$9,150,900	\$878,700		\$10,029,600
Community College				
Fund	<u>122,200</u>	<u>57,300</u>	<u>\$25,000</u>	<u>204,500</u>
TOTAL	\$9,273,100	\$936,000	\$25,000	\$10,234,100
GRAND TOTAL	\$24,126,300	\$5,767,200	\$944,100	\$30,837,600

SECTION 2. EXEMPTIONS FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS. For fiscal year 2014, the State Board of Education for Community Colleges 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, 2013, through June 30, 2014. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

Approved April 9, 2013.

CHAPTER 323  
(S.B. No. 1190)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE MEDICAL ASSISTANCE SERVICES DIVISION FOR FISCAL YEAR 2014; 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; REQUIRING MONTHLY MEDICAID TRACKING REPORTS; PROVIDING FOR TRANSFERS IN ADDITION TO TEN PERCENT FOR MEDICAL ASSISTANCE SERVICES FOR THE COORDINATED, ENHANCED, AND BASIC MEDICAID PLANS, AND THE MEDICAID ADMINISTRATION AND MEDICAL MANAGEMENT PROGRAM; CLARIFYING FUNDING FOR MEDICAID READINESS; PROVIDING LEGISLATIVE INTENT FOR MEDICAL ASSISTANCE SERVICES FOR REPORTING THE IMPLEMENTATION OF HOUSE BILL NO. 260, AS ENACTED BY THE FIRST REGULAR SESSION OF THE SIXTY-FIRST IDAHO LEGISLATURE; REQUIRING QUARTERLY REPORTS ON MEDICAID MANAGED CARE IMPLEMENTATION; 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, the following amounts to be expended 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
I. MEDICAID ADMINISTRATION AND MEDICAL MGMT:				
FROM:				
Cooperative Welfare (General)				
Fund	\$5,341,300	\$7,514,000	\$469,200	\$13,324,500
Idaho Health Insurance Access Card				
Fund		152,000		152,000
Cooperative Welfare (Dedicated)				
Fund	10,600	9,083,800		9,094,400
Cooperative Welfare (Federal)				
Fund	<u>9,373,800</u>	<u>43,561,400</u>	<u>1,638,600</u>	<u>54,573,800</u>
TOTAL	\$14,725,700	\$60,311,200	\$2,107,800	\$77,144,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>II. COORDINATED MEDICAID PLAN:</b>				
<b>FROM:</b>				
Cooperative Welfare (General)				
Fund			\$81,517,000	\$81,517,000
Hospital Assessment				
Fund			15,135,300	15,135,300
Cooperative Welfare (Dedicated)				
Fund			213,400	213,400
Cooperative Welfare (Federal)				
Fund			<u>226,667,800</u>	<u>226,667,800</u>
TOTAL			\$323,533,500	\$323,533,500
<b>III. ENHANCED MEDICAID PLAN:</b>				
<b>FROM:</b>				
Cooperative Welfare (General)				
Fund			\$284,491,300	\$284,491,300
Idaho Health Insurance Access Card				
Fund			1,524,200	1,524,200
Hospital Assessment				
Fund			4,406,400	4,406,400
Cooperative Welfare (Dedicated)				
Fund			157,252,700	157,252,700
Cooperative Welfare (Federal)				
Fund			<u>652,650,100</u>	<u>652,650,100</u>
TOTAL			\$1,100,324,700	\$1,100,324,700
<b>IV. BASIC MEDICAID PLAN:</b>				
<b>FROM:</b>				
Cooperative Welfare (General)				
Fund			\$98,136,400	\$98,136,400
Idaho Health Insurance Access Card				
Fund			2,166,100	2,166,100
Hospital Assessment				
Fund			10,458,300	10,458,300
Cooperative Welfare (Dedicated)				
Fund			1,833,900	1,833,900
Cooperative Welfare (Federal)				
Fund			<u>410,584,900</u>	<u>410,584,900</u>
TOTAL			\$523,179,600	\$523,179,600
GRAND TOTAL	\$14,725,700	\$60,311,200	\$1,949,145,600	\$2,024,182,500

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 five and forty-nine hundredths (205.49) full-time equivalent positions for the Medical Assistance Services Division at any point during the period July 1, 2013, through June 30, 2014, 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 classes during fiscal year 2014.

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. MEDICAID TRACKING REPORT. The Department of Health and Welfare, Medical Assistance Services Division and Indirect Support Services Division, shall deliver on a monthly basis to the Legislative Services Office and the Division of Financial Management a report that compares the Medicaid budget as appropriated, distributed by month for the year, to actual expenditures and remaining forecasted expenditures for the year. The report shall also include a forecast, updated monthly, of the next fiscal year's anticipated trustee and benefit expenditures. The format of the report, and the information included therein, shall be determined by the Legislative Services Office and the Division of Financial Management.

SECTION 7. TRANSFER OF APPROPRIATIONS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funding provided for the trustee and benefit payments expenditure class in the Medical Assistance Services Division may be transferred in excess of ten percent (10%) among the Coordinated Medicaid Plan, Enhanced Medicaid Plan, Basic Medicaid Plan, and Medicaid Administration and Medical Management Program, but shall not be transferred to any other budgeted programs or expenditure classes within the Department of Health and Welfare during fiscal year 2014.

SECTION 8. MEDICAID READINESS. It is the intent of the Legislature that funding provided for the Medicaid Readiness project in fiscal year 2014 support only the "mandatory" changes to the Medicaid program that are required by the Affordable Care Act. Funding for the Medicaid Readiness project should not be construed as acceptance nor rejection of the "optional" expansion of the Medicaid program as identified in the June 28, 2012 Supreme Court Ruling in the case of National Federation of Independent Business v. Sebelius, Secretary of Health and Human Services.

SECTION 9. REPORTING ON IMPLEMENTATION OF HOUSE BILL NO. 260 OF 2011. The Medical Assistance Services Division shall report on a quarterly basis the status of the implementation of House Bill No. 260, as enacted by the First Regular Session of the Sixty-first Idaho Legislature, to the Legislative Services Office and the Division of Financial Management. The report shall, at a minimum, include benefit modification implementation updates on both long-term and short-term changes, and actual cost savings realized as

a result of those changes compared to estimated savings for each modification. The format of the report, and information contained therein, shall be determined by the Legislative Services Office and the Division of Financial Management.

SECTION 10. MEDICAID MANAGED CARE IMPLEMENTATION. The Division of Medical Assistance Services shall provide quarterly reports to the Division of Financial Management and the Legislative Services Office on progress in integrating managed care approaches into the state Medicaid system. The format of the report, and information contained therein, shall be determined by the Legislative Services Office and the Division of Financial Management.

SECTION 11. EMPLOYEE COMPENSATION. The Legislature 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 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 April 9, 2013.

CHAPTER 324  
(S.B. No. 1196)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE ATTORNEY GENERAL FOR INTERNET CRIMES AGAINST CHILDREN FOR FISCAL YEAR 2014; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING AND TRANSFERRING MONEYS FROM THE CONSUMER PROTECTION FUND TO THE GENERAL FUND; 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 of House Bill No. 263, as enacted by the First Regular Session of the Sixty-second Idaho Legislature, there is hereby appropriated to the Attorney General for Internet Crimes Against Children, from the General Fund, the following amounts to be expended according to the designated expense classes, for the period July 1, 2013, through June 30, 2014:

FOR:

Personnel Costs	\$289,900
Operating Expenditures	337,200
Capital Outlay	320,800
Trustee and Benefit Payments	<u>1,067,000</u>
TOTAL	\$2,014,900

SECTION 2. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Attorney General in Section 2, House Bill No. 263, as enacted by the First Regular Session of the Sixty-second Idaho

Legislature, is increased by three and five-tenths (3.5) for the period July 1, 2013, through June 30, 2014.

SECTION 3. There is hereby appropriated and the State Controller shall transfer \$2,014,900 from the Consumer Protection Fund to the General Fund, on or before June 30, 2013.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 3 of this act shall be in full force and effect on and after passage and approval.

Approved April 9, 2013.

CHAPTER 325  
(S.B. No. 1197)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 2014; AMENDING SECTION 1 OF SENATE BILL NO. 1174, AS ENACTED BY THE FIRST REGULAR SESSION OF THE SIXTY-SECOND IDAHO LEGISLATURE; AND AMENDING SECTION 2 OF SENATE BILL NO. 1174, AS ENACTED BY THE FIRST REGULAR SESSION OF THE SIXTY-SECOND IDAHO LEGISLATURE.

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

SECTION 1. That Section 1 of Senate Bill No. 1174, as enacted by the First Regular Session of the Sixty-second Idaho Legislature, be, and the same is hereby amended to read follows:

SECTION 1. There is hereby appropriated to the Department of Commerce, 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	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$2,247,100	\$875,800	\$15,800	\$2,650,000	\$5,788,700
<del>Business and Jobs Development</del>					
<u>Idaho Opportunity</u>					
Fund				3,000,000	3,000,000
Tourism and Promotion					
Fund	722,800	3,880,900	4,900	3,764,900	8,373,500
Miscellaneous Revenue					
Fund	122,900	157,400	500		280,800
Small Business Assistance					
Fund				50,000	50,000
Seminars and Publications					
Fund		378,400			378,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant					
Fund	500,600	248,600	3,800	15,620,800	16,373,800
TOTAL	\$3,593,400	\$5,541,100	\$25,000	\$25,085,700	\$34,245,200

SECTION 2. That Section 2 of Senate Bill No. 1174, as enacted by the First Regular Session of the Sixty-second Idaho Legislature, be, and the same is hereby amended to read follows:

SECTION 2. There is hereby appropriated and the State Controller shall transfer \$3,000,000 from the General Fund to the ~~Business and Jobs Development~~ Idaho Opportunity Fund, on July 1, 2013, or as soon thereafter as practicable for the period July 1, 2013, through June 30, 2014.

Approved April 9, 2013.

CHAPTER 326  
(S.B. No. 1200)

AN ACT

RELATING TO PUBLIC SCHOOLS; STATING FUND SOURCES FOR THE APPROPRIATION TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM FOR FISCAL YEAR 2014; APPROPRIATING MONEYS FOR THE TRANSFER TO THE PUBLIC SCHOOL INCOME FUND FOR FISCAL YEAR 2014; APPROPRIATING MONEYS TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM/DIVISION OF ADMINISTRATORS FOR FISCAL YEAR 2014; APPROPRIATING MONEYS TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM/DIVISION OF TEACHERS FOR FISCAL YEAR 2014; APPROPRIATING MONEYS TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM/DIVISION OF OPERATIONS FOR FISCAL YEAR 2014; APPROPRIATING MONEYS TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM/DIVISION OF CHILDREN'S PROGRAMS FOR FISCAL YEAR 2014; APPROPRIATING MONEYS TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM/DIVISION OF FACILITIES FOR FISCAL YEAR 2014; PROVIDING THE NECESSARY FUNDS FOR THE BOND LEVY EQUALIZATION PROGRAM; LIMITING THE AMOUNT OF REVENUE DISTRIBUTED TO THE GENERAL FUND; APPROPRIATING MONEYS TO THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM/DIVISION OF EDUCATIONAL SERVICES FOR THE DEAF AND THE BLIND FOR FISCAL YEAR 2014; AMENDING SECTION 33-1004A, IDAHO CODE, TO RESTORE TWO YEARS OF EXPERIENCE ON THE MULTIPLIER TABLE; AMENDING SECTION 33-1004E, IDAHO CODE, TO ADJUST THE MINIMUM INSTRUCTIONAL STAFF SALARY; PROVIDING GUIDANCE FOR THE IDAHO DIGITAL LEARNING ACADEMY; PROVIDING THAT \$4,331,400 OF TOBACCO, CIGARETTE AND LOTTERY INCOME TAX MONEYS BE USED AS DISCRETIONARY FUNDS; DIRECTING THE USE OF \$368,600 OF TOBACCO, CIGARETTE AND LOTTERY INCOME TAX MONEYS; PROVIDING THAT TWO-THIRDS OF THE FUNDS FROM THE SCHOOL DISTRICT BUILDING ACCOUNT BE USED AS DISCRETIONARY FUNDS; RELIEVING THE STATE FROM TWO-THIRDS OF THE REQUIREMENT TO PROVIDE SCHOOL MAINTENANCE MATCHING FUNDS; PROVIDING AN ESTIMATE OF DISCRETIONARY FUNDS PER SUPPORT UNIT AT \$20,000; DIRECTING THE USE OF \$10,500,000 FOR READING AND MATH INITIATIVES, AND REMEDIATION; DIRECTING THE USE OF \$4,000,000 FOR LIMITED ENGLISH PROFICIENCY PROGRAMS; DIRECTING THE USE OF \$1,703,500 FOR THE DEVELOPMENT OR ADMINISTRATION OF ASSESSMENTS AND EXAMS; DIRECTING THE USE OF \$2,500,000 FOR INFORMATION TECHNOLOGY STAFFING COSTS; DIRECTING THE USE OF \$300,000 FOR PROFESSIONAL DEVELOPMENT AND TRAINING FOR TEACHER AND ADMINISTRATOR



EVALUATIONS; DIRECTING THE USE OF \$100,000 FOR A SAFE SCHOOLS TASK FORCE AND ASSESSMENT TOOLS; DIRECTING THE USE OF \$10,400,000 FOR TECHNOLOGY, WIRELESS TECHNOLOGY INFRASTRUCTURE, AND AN INTERNET-BASED PORTAL; DIRECTING THE USE OF \$4,500,000 FOR MAINTENANCE, OPERATION, AND LICENSING OF AN INSTRUCTIONAL MANAGEMENT SYSTEM; DIRECTING THE USE OF \$3,755,000 FOR PROFESSIONAL DEVELOPMENT AND TRAINING REGARDING IDAHO CORE STANDARDS; DIRECTING THE USE OF \$150,000 FOR TECHNOLOGY PROFESSIONAL DEVELOPMENT; DIRECTING THAT CERTAIN INFORMATION BE COMPILED BY THE STATE DEPARTMENT OF EDUCATION ON THE DUAL ENROLLMENT PROGRAM; DIRECTING THAT CERTAIN INFORMATION BE COMPILED BY THE STATE DEPARTMENT OF EDUCATION ON SAFE SCHOOL ENVIRONMENTS; PROVIDING DEDICATED FUND REAPPROPRIATION FOR FISCAL YEAR 2014; AND GRANTING THE AUTHORITY TO TRANSFER APPROPRIATIONS AMONG FIVE DIVISIONS OF THE PUBLIC SCHOOLS EDUCATIONAL SUPPORT PROGRAM.

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

SECTION 1. The following amount shall be expended from state sources for the Public Schools Educational Support Program, for the period July 1, 2013, through June 30, 2014:

FROM:

General Fund	\$1,308,365,400
Bond Levy Equalization Fund	13,704,400
School District Building Account	17,150,000
Miscellaneous Revenue	109,200
Public Schools Other Income	7,500,000
School for the Deaf and the Blind Endowment	111,600
Cigarette, Tobacco and Lottery Income Taxes	4,700,000
Public School Endowment Earnings Reserve Fund	31,292,400
Federal Grant	215,223,500
TOTAL	\$1,598,156,500

SECTION 2. There is hereby appropriated the following amount from the listed fund to be transferred to the Public School Income Fund for the period July 1, 2013, through June 30, 2014:

FROM:

General Fund	\$1,303,811,800
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SECTION 3. There is hereby appropriated to the Public Schools Educational Support Program/Division of Administrators, the following amount to be expended from the listed fund for the period July 1, 2013, through June 30, 2014:

FROM:

Public School Income Fund	\$78,138,600
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SECTION 4. There is hereby appropriated to the Public Schools Educational Support Program/Division of Teachers, the following amounts to be expended from the listed funds for the period July 1, 2013, through June 30, 2014:

FROM:

Public School Income Fund	\$743,300,800
Federal Grant	15,000,000
TOTAL	\$758,300,800

SECTION 5. There is hereby appropriated to the Public Schools Educational Support Program/Division of Operations, the following amounts to be expended from the listed funds for the period July 1, 2013, through June 30, 2014:

FROM:

Public School Income Fund	\$487,790,500
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School District Building Account	<u>11,490,500</u>
TOTAL	\$499,281,000

SECTION 6. There is hereby appropriated to the Public Schools Educational Support Program/Division of Children's Programs, the following amounts to be expended from the listed funds for the period July 1, 2013, through June 30, 2014:

FROM:

Public School Income Fund	\$30,535,600
Federal Grant	<u>200,000,000</u>
TOTAL	\$230,535,600

SECTION 7. There is hereby appropriated to the Public Schools Educational Support Program/Division of Facilities, the following amounts to be expended from the listed funds for the period July 1, 2013, through June 30, 2014:

FROM:

General Fund	\$4,553,600
Bond Levy Equalization Fund	13,704,400
School District Building Account	<u>5,659,500</u>
TOTAL	\$23,917,500

SECTION 8. Of the moneys appropriated to the Public Schools Educational Support Program, the amount necessary to fund the provisions of Section 33-906, Idaho Code, is hereby transferred and appropriated to the Bond Levy Equalization Fund.

SECTION 9. The provisions of subsection (4) of Section 63-2520, Idaho Code, notwithstanding, the amount of revenue distributed to the General Fund shall be \$3,695,600 for the period July 1, 2013, through June 30, 2014.

SECTION 10. There is hereby appropriated to the Public Schools Educational Support Program/Division of Educational Services for the Deaf and the Blind, the following amounts to be expended from the listed funds for the period July 1, 2013, through June 30, 2014:

FROM:

Public School Income Fund	\$7,538,700
Miscellaneous Revenue	109,200
School for the Deaf and the Blind Endowment	111,600
Federal Grant	<u>223,500</u>
TOTAL	\$7,983,000

SECTION 11. That Section 33-1004A, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004A. EXPERIENCE AND EDUCATION MULTIPLIER. Each instructional and administrative staff position shall be assigned an appropriate multiplier based upon the following table:

## EXPERIENCE AND EDUCATION

Years	MA MA + 12 MA + 24 MA + 36						
	BA	BA + 12	BA + 24	BA + 36	BA + 48	BA + 60	ES/DR
0	1.00000	1.03750	1.07640	1.11680	1.15870	1.20220	1.24730
1	1.03750	1.07640	1.11680	1.15870	1.20220	1.24730	1.29410
2	1.07640	1.11680	1.15870	1.20220	1.24730	1.29410	1.34260
3	1.11680	1.15870	1.20220	1.24730	1.29410	1.34260	1.39290
4	1.15870	1.20220	1.24730	1.29410	1.34260	1.39290	1.44510
5	1.20220	1.24730	1.29410	1.34260	1.39290	1.44510	1.49930
6	1.24730	1.29410	1.34260	1.39290	1.44510	1.49930	1.55550
7	1.29410	1.34260	1.39290	1.44510	1.49930	1.55550	1.61380
8	1.34260	1.39290	1.44510	1.49930	1.55550	1.61380	1.67430
9	1.39290	1.44510	1.49930	1.55550	1.61380	1.67430	1.73710
10	1.39290	1.49930	1.55550	1.61380	1.67430	1.73710	1.80220
11	1.39290	1.49930	1.55550	1.61380	1.73710	1.80220	1.86980
12	1.39290	1.49930	1.55550	1.61380	1.73710	1.86980	1.93990
13 or more	1.39290	1.49930	1.55550	1.61380	1.73710	1.86980	2.01260

In determining the experience factor, the actual years of teaching or administrative service in a public school, in an accredited private or parochial school, or beginning in the 2005-06 school year and thereafter in an accredited college or university shall be credited, ~~minus two (2); provided however, that the experience factor cannot be less than zero (0).~~

In determining the education factor, only credits earned after initial certification, based upon a transcript on file with the teacher certification office of the state department of education, earned at an institution of higher education accredited by the state board of education or a regional accrediting association, shall be allowed. Instructional staff whose initial certificate is an occupational specialist certificate shall be treated as BA degree prepared instructional staff. Credits earned by such occupational specialist instructional staff after initial certification shall be credited toward the education factor. For the time period July 1, 2010, through June 30, 2011, instructional and administrative staff shall not advance on the education portion of the multiplier table.

In determining the statewide average multiplier for instructional staff, no multiplier in excess of 1.59092 shall be used. If the actual statewide average multiplier for instructional staff, as determined by this section, exceeds 1.59092, then each school district's instructional staff multiplier shall be multiplied by the result of 1.59092 divided by the actual statewide average multiplier for instructional staff.

In determining the statewide average multiplier for administrative staff, no multiplier in excess of 1.86643 shall be used. If the actual statewide average multiplier for administrative staff, as determined by this section, exceeds 1.86643, then each school district's administrative staff multiplier shall be multiplied by the result of 1.86643 divided by the actual statewide average multiplier for administrative staff.

SECTION 12. That Section 33-1004E, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004E. DISTRICT'S SALARY-BASED APPORTIONMENT. Each district shall be entitled to a salary-based apportionment calculated as provided in this section.

1. To determine the apportionment for instructional staff, first determine the district average experience and education index by placing all eligible district certificated instructional employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the 1994-95 school year, and shall receive their actual index but not more than the state average plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district instructional staff index shall be multiplied by the instructional base salary of \$23,123. The amount so determined shall be multiplied by the district staff allowance for instructional staff determined as provided in section 33-1004(2), Idaho Code. The instructional salary allocation shall be further increased by the amount necessary for each full-time equivalent instructional staff member placed on the experience and education index to be allocated at least the minimum salary mandated by this section. Full-time instructional staff salaries shall be determined from a salary schedule developed by each district and submitted to the state department of education. No full-time instructional staff member shall be paid less than ~~\$30,500~~\$31,000. If an instructional staff member has been certified by the national board for professional teaching standards, the staff member shall be designated as a master teacher and receive \$2,000 per year for five (5) years. The instructional salary shall be increased by \$2,000 for each master teacher provided however, that no such awards shall be paid for the period July 1, 2010, through June 30, 2011, nor shall any liabilities accrue or payments be made pursuant to this section in the future to any individuals who would have otherwise qualified for a payment during this stated time period. The resulting amount is the district's salary-based apportionment for instructional staff. For purposes of this section, teachers qualifying for the salary increase as master teacher shall be those who have been recognized as national board certified teachers as of July 1 of each year.

2. To determine the apportionment for district administrative staff, first determine the district average experience and education index by placing all eligible certificated administrative employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the school year 1994-95, and shall receive their actual index but not more than the state average index plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district administrative staff index shall be multiplied by the base salary of \$31,833. The amount so determined shall be multiplied by the district staff allowance for administrative staff determined as provided in section 33-1004(3), Idaho Code. The resulting amount is the district's salary-based apportionment for administrative staff.

3. To determine the apportionment for classified staff, multiply \$19,058 by the district classified staff allowance determined as provided in section 33-1004(4), Idaho Code. The amount so determined is the district's apportionment for classified staff.

4. The district's salary-based apportionment shall be the sum of the apportionments calculated in subsections 1., 2. and 3., of this section, plus the benefit apportionment as provided in section 33-1004F, Idaho Code.

SECTION 13. The Idaho Digital Learning Academy (IDLA), created pursuant to Chapter 55, Title 33, Idaho Code, shall utilize state appropriated

funds for the period July 1, 2013, through June 30, 2014, to achieve the following:

(1) Tuition charged by IDLA to Idaho students shall not exceed \$100 per enrollment.

(2) Provide remedial coursework for students failing to achieve proficiency in one (1) or more areas of the Idaho Standards Achievement Test.

(3) Pursuant to the fiscal impact statement for the State Board of Education rule, IDAPA 08.02.03, Docket Number 08-0203-0605, provide advanced learning opportunities for students.

(4) Pursuant to State Board of Education rule, IDAPA 08.02.03, Docket Number 08-0203-0605, work with institutions of higher education to provide dual credit coursework.

The preceding list shall not be construed as excluding other instruction and training that may be provided by the Idaho Digital Learning Academy.

SECTION 14. Notwithstanding the provisions of any law to the contrary, of the moneys appropriated in Section 5 of this act, up to \$4,331,400 from funds determined by available tobacco, cigarette and lottery income tax revenues accruing, appropriated, or distributed to the Public School Income Fund pursuant to Sections 63-2506, 63-2552A, 63-3035A and 63-3067, Idaho Code, for the period July 1, 2013, through June 30, 2014, shall be distributed as discretionary funds within the Public Schools Educational Support Program/Division of Operations, and school districts and charter schools are hereby relieved of any restrictions on the use of such funds, apart from restrictions that apply to the use of discretionary funds.

SECTION 15. Of the moneys appropriated in Section 6 of this act, \$368,600 from funds determined by available revenues accruing, appropriated, or distributed to the Public School Income Fund pursuant to Sections 63-2506, 63-2552A, 63-3035A and 63-3067, Idaho Code, and other such moneys that may become available pursuant to Idaho laws, for the period July 1, 2013, through June 30, 2014, shall be distributed as follows: the provisions of Section 63-2552A(3), Idaho Code, notwithstanding, \$200,000 shall be remitted to the Idaho State Police to increase toxicology lab capacity in the Bureau of Forensic Services for drug testing of juveniles; the Superintendent of Public Instruction may use up to \$90,000 for Safe and Drug-Free Schools Program administration, technical assistance, and evaluation; and \$78,600 shall be remitted to the Commission on Hispanic Affairs on or before July 15, 2013, to be used for substance abuse prevention efforts in collaboration with the State Department of Education.

SECTION 16. Notwithstanding the provisions of Sections 33-905 and 33-1019, Idaho Code, for the period July 1, 2013, through June 30, 2014, sixty-seven percent (67%) of all moneys appropriated from the School District Building Account shall be distributed as discretionary funds within the Public Schools Educational Support Program/Division of Operations and school districts and charter schools are hereby relieved of any restrictions on the use of such funds, apart from restrictions that apply to the use of discretionary funds.

SECTION 17. Notwithstanding the provisions of Sections 33-1018B and 33-1019, Idaho Code, for the period July 1, 2013, through June 30, 2014, only, the state is hereby temporarily relieved from the requirement to provide sixty-seven percent (67%) of its portion of the school maintenance matching funds normally required by such sections, nor shall school districts be required to make up such portion that would otherwise be provided by the state.

SECTION 18. Pursuant to the provisions of Section 33-1018, Idaho Code, for the period July 1, 2013, through June 30, 2014, it is estimated that

the appropriation of state funds to the Public Schools Educational Support Program/Division of Operations will result in total discretionary funds of \$20,000 per support unit.

SECTION 19. Of the moneys appropriated in Section 6 of this act, \$10,500,000 shall be used for literacy programs, as outlined in Sections 33-1207A(2), 33-1614 and 33-1615, Idaho Code; remedial coursework for students failing to achieve proficiency in the Idaho Standards Achievement Test; computerized remediation services to schools; and math initiative efforts, in dollar amounts determined by the Superintendent of Public Instruction. It is legislative intent that the State Board of Education and State Department of Education coordinate federally funded literacy programs with state literacy programs, resulting in well-coordinated, complementary literacy efforts. The Superintendent of Public Instruction shall report to the Joint Finance-Appropriations Committee and the House and Senate Education committees, by no later than February 1, 2015, on the uses of funds and effectiveness of the programs and efforts.

SECTION 20. Pursuant to Section 33-1617, Idaho Code, of the moneys appropriated in Section 6 of this act, \$4,000,000 shall be distributed for support of programs for students with non-English or limited English proficiency, as follows:

(1) The State Department of Education shall distribute \$3,500,000 to school districts pro rata, based upon the population of limited English proficient students under criteria established by the department.

(2) The State Department of Education shall use \$500,000 for the competitive grant program for school districts in which the population of English language learners failed to meet Adequate Yearly Progress (AYP) in math or reading, as defined in federal law. Of this amount, \$450,000 shall be distributed annually to school districts in three (3) year grant cycles, in which the recipients will receive full grant awards each of the three (3) years, contingent on appropriation. The remaining \$50,000 will be used for evaluation and administration of the program.

(3) The department shall develop the program elements governing the use of these funds, modeled on the training, intervention and remediation elements of the literacy programs referenced in Section 19 of this act. The purpose of these funds is to improve the English language skills of English language learners, to enable such students to better access the educational opportunities offered in public schools. The Superintendent of Public Instruction shall report to the Joint Finance-Appropriations Committee and the House and Senate Education committees by no later than February 1, 2015, on the program design, uses of funds and effectiveness of the program.

SECTION 21. Of the moneys appropriated in Section 6 of this act, \$1,703,500 shall be used for the development or administration of student assessments, including a college entrance exam for 11th grade students, an exam for 10th grade students that provides preparation for the college entrance exam, and end-of-course examinations for high school science subjects.

SECTION 22. Of the moneys appropriated in Section 5 of this act, \$2,500,000 shall be distributed for public school information technology staff costs. Such moneys shall be distributed pursuant to a formula, with a minimum distribution per school district and public charter school, determined by the Superintendent of Public Instruction.

SECTION 23. Of the moneys appropriated in Section 3 of this act, \$300,000 shall be used for professional development and training that promotes the effective, consistent evaluation of teacher and administra-

tor performance, pursuant to standards established by the State Board of Education.

SECTION 24. Of the moneys appropriated in Section 6 of this act, up to \$100,000 may be expended by the Superintendent of Public Instruction to facilitate a safe schools task force, develop a common threat assessment tool and accompanying rubric, establish a support structure for the implementation of the tool throughout the state, establish a secure mechanism for collecting data results on the threat assessment, and assist school districts in the creation of safety plans at the local level, based on the deficiencies identified in the assessment.

SECTION 25. Of the moneys appropriated in Section 5 of this act, \$10,400,000 shall be expended by the Superintendent of Public Instruction as follows:

(1) \$8,000,000 shall be distributed for classroom technology that assists teachers and students in effective and efficient instruction or learning.

(2) \$2,250,000 shall be expended for the installation, repair, replacement and support of a wireless technology infrastructure, in each public school serving high school grades, of sufficient capacity to support utilization of mobile computing devices by all students in such grades.

(3) \$150,000 may be expended for the development and maintenance of an Internet-based portal of available online, nonsectarian K-12 or dual credit courses available from any of the following: (a) Idaho Digital Learning Academy; (b) Idaho public school districts; (c) Idaho public charter schools; (d) Idaho public colleges and universities; (e) Idaho private colleges and universities accredited by the same organization that accredits Idaho's public colleges and universities; and (f) Any provider of online courses; provided however, that the courses available on the portal have been verified and approved by the State Department of Education to meet state content standards.

Of the amounts allocated pursuant to subsections (2) and (3) of this section, no more than \$190,000 may be utilized by the Superintendent of Public Instruction for technology staff support costs. The dollars allocated for subsections (2) and (3) of this section may be reallocated between said subsections by the Superintendent of Public Instruction, subject to a ten percent (10%) maximum cumulative change in the allocated amounts.

SECTION 26. Of the moneys appropriated in Section 5 of this act, \$4,500,000 shall be used for the maintenance, operation, and licensing of the instructional management system that includes high quality digital learning resources and software linked to state and local curricula, model lesson plans, content and formative and summative assessments tied to rigorous college and career-ready standards, and safe and secure online knowledge sharing and collaboration systems.

SECTION 27. Of the moneys appropriated in Section 4 of this act, \$3,755,000 shall be used for professional development, training and assistance that promotes the implementation of Idaho core mathematical and English language arts standards including, but not limited to, the alignment of curriculum and instruction to such standards.

SECTION 28. Of the moneys appropriated in Section 4 of this act, \$150,000 shall be used for professional development and training that promotes the effective use of technology by students, staff and parents, the integration of technology into public school curricula and instructional methods, the development of plans at the school, district and statewide level for the improved use and integration of technology in learning, and the development and effective utilization of student data.

SECTION 29. It is legislative intent that the State Department of Education shall compile information concerning the numbers of students enrolling in dual credit courses according to the provisions of Section 33-1626, Idaho Code, whether coursework is successfully completed, and total expenditures for fiscal year 2014. As nearly as possible, the report shall contain information about enrollment of this student population in post-high school education. A report containing such information shall be posted on the website of the State Department of Education no later than December 31, 2014.

SECTION 30. It is legislative intent that the State Department of Education shall compile information concerning school district and charter school expenditures of funds pursuant to the safe school environment and student learning provisions of Section 33-1002(2)(1), Idaho Code, for fiscal year 2014 and post such information to the department's website no later than December 31, 2014.

SECTION 31. DEDICATED FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Public Schools Educational Support Program the unexpended and unencumbered balance of Public School Income Fund moneys allocated pursuant to Section 33-1022(3)(c), Idaho Code, for fiscal year 2013, to be used for the same purposes as originally authorized pursuant to Section 33-1022(3)(c), Idaho Code, for the period July 1, 2013, through June 30, 2014. This measure is taken to satisfy the matching requirements of the J.A. and Kathryn Albertson Foundation funding award to develop an instructional management system.

SECTION 32. The State Department of Education is hereby granted the authority to transfer appropriations between the Administrators, Teachers, Operations, Children's Programs, and Facilities Divisions of the Public Schools Educational Support Program budget, in any amount necessary, to comply with the public school funding provisions of appropriations and the Idaho Code.

Approved April 9, 2013.

CHAPTER 327  
(S.B. No. 1155)

AN ACT

RELATING TO WATER DISTRICTS; AMENDING SECTION 42-605, IDAHO CODE, TO CLARIFY COMPENSATION PROVISIONS RELATING TO WATERMASTERS AND ASSISTANTS.

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

SECTION 1. That Section 42-605, Idaho Code, be, and the same is hereby amended to read as follows:

42-605. DISTRICT MEETINGS -- WATERMASTER AND ASSISTANTS -- ELECTION -- REMOVAL -- OATH AND BOND -- ADVISORY COMMITTEE. (1) There shall be held on the first Monday in March in each year, and, except as provided in subsection (2) of this section, commencing at two o'clock P.M., a meeting of all persons owning or having the use of a water right, in the waters of the stream or water supply comprising such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources.

(2) Such meeting shall be held at some place within the water district, or at some nearby location convenient to a majority of those entitled to vote



thereat, which place shall be designated by the director of the department of water resources. The director shall, at least twenty-one (21) days prior to the meeting date, send notification by regular mail to all persons, companies or corporations known by the director to hold rights to the use of the waters of such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources, of the time, date, location and purpose of the annual meeting. At any annual meeting the water users may vote to waive the requirement for notice by mail and provide for notice to be given for future meetings by publication of the time, date, location and purpose of the meeting in a newspaper or newspapers in general circulation in the district. Published notice shall be made once per week for two (2) consecutive weeks with the second notice appearing at least fourteen (14) and not more than thirty (30) days prior to the meeting. In water districts whose area includes land in more than four (4) counties the annual meeting shall commence at ten o'clock A.M. instead of two o'clock P.M.: provided, that the water users of any water district may, by resolution adopted at an annual meeting or at a special meeting properly called for that purpose, change the time of day when the meeting shall commence or change the date for annual meetings in subsequent years to any day except Saturday and Sunday between the second Monday of January and the third Monday in March or change both the time and the date, in which case the director of the department of water resources shall send notification at least twenty-one (21) days prior to said meeting date. At an annual meeting the water users may adopt resolutions to assure or improve the distribution of the waters of the district within state law, and may provide that such resolutions shall continue from year to year.

(3) At the meeting of the water users of a district there shall be elected a watermaster for such water district, who may be authorized to employ such other regular assistants as the water users shall deem necessary, and who, upon appointment by the director of the department of water resources, shall be responsible for distribution of water within said water district, ~~and.~~ Notwithstanding any personnel classification assigned to the watermaster and assistants pursuant to the provisions of chapter 53, title 67, Idaho Code, the water users shall, prior to the election of such watermaster and approval of the employment of assistants, fix the compensation to be paid them during the time actually engaged in the performance of their duties.

(4) Voting shall be by majority vote of the water users present at the meeting unless one (1) or more water users requests voting using the procedure which follows in this subsection. In such case the meeting chairman shall appoint a credentials committee to determine the number of votes each water user present is authorized to cast. If requested, each person present, owning or having the use for the ensuing season of any water right in the stream or water supply comprising such water district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources, shall be entitled to a number of votes equal to the average annual dollar amount and any fraction thereof assessed for that person's qualifying water right for the previous five (5) years, or such lesser number of years as the right has been assessed. If a right has not previously been assessed, a person present, owning or having the use of the right for the ensuing season shall be entitled to a number of votes equal to the dollar amount and any fraction thereof which the right would have been assessed had it existed and been reasonably used when water was available under the priority of the right during the previous season.

(5) At such meeting the water users shall choose a meeting chairman and meeting secretary and shall determine the manner and method of electing the watermaster. The water users shall, at the annual meeting, provide for the water district treasurer functions in accordance with section 42-619, Idaho Code. Within five (5) days after such meeting the meeting chairman and meet-

ing secretary shall forward a certified copy of the minutes of such meeting to the department of water resources. The meeting chairman, or the meeting secretary, if the meeting chairman is not present, from the immediately preceding annual meeting shall call the meeting to order and preside over the election of officers for the meeting.

(6) At such meeting the water users may choose an advisory committee to be composed of members selected as may be determined at the meeting, which committee shall serve as advisors to the director and the watermaster in matters pertaining to the distribution of water within the district. The advisory committee may be authorized to carry out policies as set forth in resolutions duly adopted by the water users at the annual meeting or at a special meeting. The advisory committee may also serve as the local committee to facilitate the rental of stored water if appointed by the water resource board for such purpose under the provisions of section 42-1765, Idaho Code.

(7) A corporation or a water delivery organization, including, but not limited to a corporation, a water company, an irrigation district, an irrigation company or a canal company, shall be considered a person for the purpose of this section and shall cast its vote by someone to be designated by the corporation.

(8) Should said meeting not be held, or should said watermaster not be elected or the watermaster's compensation not be fixed as above provided, then the director of the department of water resources is authorized to appoint a watermaster and fix the watermaster's compensation.

(9) The director of the department of water resources may remove any watermaster whenever such watermaster fails to perform the watermaster's duty, upon complaint in that respect being made to the director in writing, by one (1) person owning or having the right to the use of a water right in such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources provided, that upon investigation the director, after a hearing with the other water users of said district, which shall be held in the district or at some location convenient to the water users of the district, finds such charge to be true, and the director may appoint a successor for the unexpired term.

(10) Before entering upon the duties of the watermaster's office, said watermaster shall take and subscribe to an oath before some officer authorized by the laws of the state to administer oaths, to faithfully perform the duties of the watermaster's office, as provided in section 42-607, Idaho Code, and shall file that oath with the department of water resources. Upon appointment by the director of the department of water resources, the actions taken by a watermaster in fulfillment of the duties of his office are covered by the state group surety bond as provided by sections 59-801 through 59-804, Idaho Code. A duly appointed watermaster that is reelected in consecutive years shall not be required to take and file additional oaths with the department of water resources for each consecutive year the watermaster is reelected.

(11) The director shall call a special meeting of the water users of a district upon receipt of a written request for such meeting from a majority of the members of the advisory committee for a district, a written request from water users representing thirty percent (30%) or more of the votes cast at the last regular annual meeting, a written request from the watermaster or on the director's own motion if the director determines a meeting is necessary to address matters that cannot be delayed until the next regular annual meeting. Notice of the time, place and purpose of the special meeting shall be given by the director in the manner provided in subsection (2) of this section, provided however, that a special meeting notice shall be sent at least fourteen (14) days prior to the meeting date.

(12) The water users may, by resolution, authorize the watermaster to acquire, hold and dispose of such real and personal property, equipment and

facilities in the name of the water district as necessary for the proper distribution of water and shall provide that all such real and personal property shall remain in the custody of the watermaster and the watermaster's successor.

Approved April 11, 2013.

CHAPTER 328

(S.B. No. 1134, As Amended, As Amended  
in the House, As Amended in the House)

AN ACT

RELATING TO AERONAUTICS; AMENDING CHAPTER 2, TITLE 21, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 21-213, IDAHO CODE, TO DEFINE A TERM, TO ESTABLISH PROVISIONS RELATING TO RESTRICTIONS ON THE USE OF UNMANNED AIRCRAFT SYSTEMS, TO PROVIDE EXCEPTIONS, TO PROVIDE FOR A CIVIL CAUSE OF ACTION, TO PROVIDE FOR CERTAIN DAMAGES AND TO PROVIDE THAT AN OWNER OF CERTAIN FACILITIES SHALL NOT BE PROHIBITED FROM USING AN UNMANNED AIRCRAFT SYSTEM TO INSPECT SUCH FACILITIES.

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

SECTION 1. That Chapter 2, Title 21, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 21-213, Idaho Code, and to read as follows:

21-213. RESTRICTIONS ON USE OF UNMANNED AIRCRAFT SYSTEMS -- DEFINITION -- VIOLATION -- CAUSE OF ACTION AND DAMAGES.

(1) (a) For the purposes of this section, the term "unmanned aircraft system" (UAS) means an unmanned aircraft vehicle, drone, remotely piloted vehicle, remotely piloted aircraft or remotely operated aircraft that is a powered aerial vehicle that does not carry a human operator, can fly autonomously or remotely and can be expendable or recoverable.

(b) Unmanned aircraft system does not include:

(i) Model flying airplanes or rockets including, but not necessarily limited to, those that are radio controlled or otherwise remotely controlled and that are used purely for sport or recreational purposes; and

(ii) An unmanned aircraft system used in mapping or resource management.

(2) (a) Absent a warrant, and except for emergency response for safety, search and rescue or controlled substance investigations, no person, entity or state agency shall use an unmanned aircraft system to intentionally conduct surveillance of, gather evidence or collect information about, or photographically or electronically record specifically targeted persons or specifically targeted private property including, but not limited to:

(i) An individual or a dwelling owned by an individual and such dwelling's curtilage, without such individual's written consent;

(ii) A farm, dairy, ranch or other agricultural industry without the written consent of the owner of such farm, dairy, ranch or other agricultural industry.

(b) No person, entity or state agency shall use an unmanned aircraft system to photograph or otherwise record an individual, without such individual's written consent, for the purpose of publishing or otherwise publicly disseminating such photograph or recording.

(3) Any person who is the subject of prohibited conduct under subsection (2) of this section shall:

(a) Have a civil cause of action against the person, entity or state agency for such prohibited conduct; and

(b) Be entitled to recover from any such person, entity or state agency damages in the amount of the greater of one thousand dollars (\$1,000) or actual and general damages, plus reasonable attorney's fees and other litigation costs reasonably incurred.

(4) An owner of facilities located on lands owned by another under a valid easement, permit, license or other right of occupancy is not prohibited in this section from using an unmanned aircraft system to aerially inspect such facilities.

Approved April 11, 2013.

#### CHAPTER 329

(S.B. No. 1147, As Amended)

#### AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1275, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO FACT-FINDERS, APPOINTMENT AND HEARINGS, TO ESTABLISH PROVISIONS RELATING TO TERMS OF AGREEMENTS, TO PROVIDE THAT AGREEMENTS SHALL HAVE A ONE YEAR DURATION, TO ESTABLISH PROVISIONS RELATING TO LIMITATIONS ON THE PARTIES' AUTHORITY, TO ESTABLISH PROVISIONS RELATING TO CERTAIN AGREEMENTS HAVING A NONROLLING TWO YEAR DURATION AND TO DEFINE TERMS; AMENDING CHAPTER 12, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1275, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO FACT-FINDERS, CERTAIN HEARINGS AND A REPORT; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION, PROVIDING A SUNSET DATE AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 33-1275, Idaho Code, be, and the same is hereby amended to read as follows:

~~33-1275. FACT-FINDERS -- APPOINTMENT -- HEARINGS TERMS OF AGREEMENTS. 1. If mediation fails to bring agreement on all negotiable issues, the issues which remain in dispute may be submitted to fact-finding by request of either party. One or more fact-finders shall be appointed by the parties by mutual agreement. If such agreement cannot be reached within thirty (30) days of the request for such appointment, the state superintendent of public instruction shall make such appointment. The fact-finder shall have authority to establish procedural rules, conduct investigations and hold hearings during which each party to the dispute shall be given an opportunity to present its case with supporting evidence.~~

~~2. Within thirty (30) days following designation of the fact-finder, he shall submit a report in writing to the respective representatives of the board and the professional employees, setting forth findings of fact and recommendations on the issues submitted~~

~~(1) All agreements, by any name or title, entered into pursuant to the provisions of this act, shall have a one (1) year duration of July 1 through June 30 of the ensuing fiscal year. The parties shall not have the authority to enter into any agreement negotiated under the provisions of this act that has any term that allows for such agreement or any provision of such agreement to be in any force or effect for multiple years or indefinitely, or otherwise does not expire on its own terms on or before June 30 of the ensuing fiscal year.~~

~~(2) Notwithstanding the provisions of subsection (1) of this section, upon mutual ratification, any item other than compensation and benefits as~~

defined in subsection (3) of this section of any agreement entered into pursuant to this act may have a nonrolling two (2) year duration with a designated start date and end date. A second year term for any item not defined in subsection (3) of this section cannot be added, automatically or by mutual consent, back into the agreement after the expiration of the first year but rather may be addressed by the parties at the expiration of the end date of the two (2) year term.

(3) For purposes of this section, "compensation" means salary and benefits for professional employees. "Benefits" means employee insurance, leave time and sick leave benefits.

SECTION 2. That Chapter 12, 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 33-1275, Idaho Code, and to read as follows:

33-1275. FACT-FINDERS -- APPOINTMENT -- HEARINGS. (1) If mediation fails to bring agreement on all negotiable issues, the issues which remain in dispute may be submitted to fact-finding by request of either party. One (1) or more fact-finders shall be appointed by the parties by mutual agreement. If such agreement cannot be reached within thirty (30) days of the request for such appointment, the state superintendent of public instruction shall make such appointment. The fact-finder shall have authority to establish procedural rules, conduct investigations and hold hearings during which each party to the dispute shall be given an opportunity to present its case with supporting evidence.

(2) Within thirty (30) days following designation of the fact-finder, he shall submit a report in writing to the respective representatives of the board and the professional employees, setting forth findings of fact and recommendations on the issues submitted.

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, 2014. The provisions of Section 2 of this act shall be in full force and effect on and after July 1, 2014.

Approved April 11, 2013.

CHAPTER 330  
(S.B. No. 1149)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1271, IDAHO CODE, TO REVISE LANGUAGE RELATING TO ENTERING INTO A NEGOTIATION AGREEMENT, TO PROVIDE FOR NEGOTIATIONS IN GOOD FAITH, TO REVISE PROVISIONS RELATING TO A REQUEST FOR NEGOTIATIONS AND TO REVISE PROVISIONS RELATING TO RATIFICATION; AMENDING SECTION 33-1272, IDAHO CODE, TO REVISE DEFINITIONS, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1273, IDAHO CODE, TO CLARIFY THAT THE LOCAL EDUCATION ORGANIZATION SHALL BE THE EXCLUSIVE REPRESENTATIVE FOR CERTAIN EMPLOYEES IN THAT DISTRICT FOR PURPOSES OF NEGOTIATIONS PURSUANT TO LAW AND TO PROVIDE THAT NEGOTIATIONS SHALL ONLY OCCUR BETWEEN CERTAIN REPRESENTATIVES; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-1271, Idaho Code, be, and the same is hereby amended to read as follows:

33-1271. SCHOOL DISTRICTS -- PROFESSIONAL EMPLOYEES -- NEGOTIATION AGREEMENTS. The board of trustees of each school district, including specially chartered districts, or the designated representative(s) of such district, is hereby empowered to and shall, upon its own initiative or upon the request of a local education organization representing a majority of the professional employees, enter into a negotiation agreement with the local education organization or the designated representative(s) of such organization. ~~and negotiate with such party in~~

(1) The parties to such negotiations shall negotiate in good faith on those matters specified in any such negotiation agreement between the local board of trustees and the local education organization.

(2) A request for negotiations may be initiated by either party to such negotiation agreement.

(3) Upon either party making a request for negotiations, the local education organization, upon board request, shall provide to the district written evidence establishing that the local education organization represents fifty percent (50%) plus one (1) of the professional employees for negotiations. If requested by the board, the local education organization shall establish this representative status on an annual basis, prior to the commencement of negotiations.

(4) Accurate records or minutes of the proceedings shall be kept and shall be available for public inspection at the office of the affected school district during normal business hours.

(5) Joint ratification of all final offers of settlement shall be made in open meetings. Each party must provide written evidence confirming to the other that majority ratification has occurred.

SECTION 2. That Section 33-1272, Idaho Code, be, and the same is hereby amended to read as follows:

33-1272. DEFINITIONS. ~~Definition of terms as~~ used in this act:

(1-) "Professional employee" means any certificated employee of a school district, including charter districts; provided, however, that administrative personnel including superintendents, supervisors or principals may be are excluded from the professional employee group if a negotiation agreement between the board and local education organization so specifies for the purposes of negotiations.

(2-) "Local education organization" means any local district organization duly chosen and selected by a majority fifty percent (50%) plus one (1) of the professional employees, excluding administrative personnel as addressed in this section, as their representative organization for negotiations under this act.

(3-) "Negotiations" means meeting and conferring in good faith by a local board of trustees and the authorized local education organization, or the respective designated representatives of both parties for the purpose of reaching an agreement, upon matters and conditions subject to negotiations as specified in a negotiation agreement between said parties. For the purposes of this section, "good faith" means honesty, fairness and lawfulness of purpose with the absence of any intent to defraud, act maliciously or take unfair advantage or the observance of reasonable standards of fair dealing.

SECTION 3. That Section 33-1273, Idaho Code, be, and the same is hereby amended to read as follows:

33-1273. SCHOOL DISTRICTS -- PROFESSIONAL EMPLOYEES -- NEGOTIATIONS. The local education organization shall be the exclusive representative for all professional employees in that district for purposes of negotiations pursuant to the provisions of this chapter. The individual or individuals selected to negotiate for the professional employees shall be a member of the organization designated to represent the professional employees and shall be a professional employee of the local school district. However, in the event a local board of trustees chooses to designate any individual(s) other than the superintendent or elected trustee(s) of the school district as its representative(s) for negotiations, the local educational organization is authorized to designate any individual(s) of its choosing to act as its representative(s) for negotiations. ~~A local board of trustees or its designated representative(s) shall negotiate matters covered by a negotiations agreement only with the local education organization or its designated representative(s).~~ Negotiations pursuant to this chapter shall only occur between the respective designated representatives.

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 April 11, 2013.

CHAPTER 331  
(S.B. No. 1150)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-513, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO AN EMPLOYEE'S APPEAL TO THE DISTRICT COURT, TO ESTABLISH PROVISIONS RELATING TO THE DISTRICT COURT'S ACTION, TO PROVIDE THAT THE DETERMINATION OF THE BOARD OF TRUSTEES SHALL BE AFFIRMED UNLESS THE COURT MAKES CERTAIN FINDINGS, TO MAKE A CODIFIER'S CORRECTION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-513, Idaho Code, be, and the same is hereby amended to read as follows:

33-513. PROFESSIONAL PERSONNEL. The board of trustees of each school district, including any specially chartered district, shall have the following powers and duties:

1. To employ professional personnel, on written contract in form approved by the state superintendent of public instruction, conditioned upon a valid certificate being held by such professional personnel at the time of entering upon the duties thereunder. Should the board of trustees fail to enter into written contract for the employment of any such person, the state superintendent of public instruction shall withhold ensuing apportionments until such written contract be entered into. When the board of trustees has delivered a proposed contract for the next ensuing year to any such person, such person shall have a period of time to be determined by the board of

trustees in its discretion, but in no event less than ten (10) days from the date the contract is delivered, in which to sign the contract and return it to the board. Delivery of a contract may be made only in person or by certified mail, return receipt requested. When delivery is made in person, delivery of the contract must be acknowledged by a signed receipt. When delivery is made by certified mail, delivery must be acknowledged by the return of the certified mail receipt from the person to whom the contract was sent. Should the person willfully refuse to acknowledge receipt of the contract or the contract is not signed and returned to the board in the designated period of time, the board may declare the position vacant.

The board of trustees shall withhold the salary of any teacher who does not hold a teaching certificate valid in this state. It shall not contract to require any teacher to make up time spent in attending any meeting called by the state board of education or by the state superintendent of public instruction; nor while attending regularly scheduled official meetings of the state teachers' association.

2. In the case of school districts other than elementary school districts, to employ a superintendent of schools for a term not to exceed three (3) years, who shall be the executive officer of the board of trustees with such powers and duties as the board may prescribe. The superintendent shall also act as the authorized representative of the district whenever such is required, unless some other person shall be named by the board of trustees to act as its authorized representative. The board of trustees shall conduct an annual, written formal evaluation of the work of the superintendent of the district. The evaluation shall indicate the strengths and weaknesses of the superintendent's job performance in the year immediately preceding the evaluation and areas where improvement in the superintendent's job performance, in the view of the board of trustees, is called for.

3. To employ through written contract principals who shall hold a valid certificate appropriate to the position for which they are employed, who shall supervise the operation and management of the school in accordance with the policies established by the board of trustees and who shall be under the supervision of the superintendent.

4. To employ assistant superintendents and principals for a term not to exceed two (2) years. Service performed under such contract shall be included in meeting the provisions of section 33-515, Idaho Code, as a teacher and persons eligible for a renewable contract as a teacher shall retain such eligibility.

5. To suspend, grant leave of absence, place on probation or discharge certificated professional personnel for a material violation of any lawful rules or regulations of the board of trustees or of the state board of education, or for any conduct which could constitute grounds for revocation of a teaching certificate. Any certificated professional employee, except the superintendent, may be discharged during a contract term under the following procedures:

(a) The superintendent or any other duly authorized administrative officer of the school district may recommend the discharge of any certificated employee by filing with the board of trustees written notice specifying the alleged reasons for discharge.

(b) Upon receipt of such notice the board, acting through ~~their~~ its duly authorized administrative official, shall give the affected employee written notice of the allegations and the recommendation of discharge, along with written notice of a hearing before the board prior to any determination by the board of the truth of the allegations.

(c) The hearing shall be scheduled to take place not less than six (6) days nor more than twenty-one (21) days after receipt of the notice by the employee. The date provided for the hearing may be changed by mutual consent.



(d) The hearing shall be public unless the employee requests in writing that it be in executive session.

(e) All testimony at the hearing shall be given under oath or affirmation. Any member of the board, or the clerk of the board, may administer oaths to witnesses or affirmations by witnesses.

(f) The employee may be represented by legal counsel and/or by a representative of a local or state teachers association.

(g) The chairman of the board or the designee of the chairman shall conduct the hearing.

(h) The board 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 upon request of the employee.

(i) At the hearing the superintendent or other duly authorized administrative officer shall present evidence to substantiate the allegations contained in such notice.

(j) The employee may produce evidence to refute the allegations. Any witness presented by the superintendent or by the employee shall be subject to cross-examination. The board may also examine witnesses and be represented by counsel.

(k) The affected employee may file written briefs and arguments with the board within three (3) days after the close of the hearing or such other time as may be agreed upon by the affected employee and the board.

(l) Within fifteen (15) days following the close of the hearing, the board shall determine and, acting through ~~their~~ its duly authorized administrative official, shall notify the employee in writing whether the evidence presented at the hearing established the truth of the allegations and whether the employee is to be retained, immediately discharged, or discharged upon termination of the current contract.

(m) If the employee appeals the decision of the board of trustees to the district court, the district court may affirm the board's decision or set it aside and remand the matter to the board of trustees upon the following grounds and shall not set the same aside for any other grounds:

(i) That the findings of fact are not based upon any substantial, competent evidence;

(ii) That the board of trustees has acted without jurisdiction or in excess of its authority; or

(iii) That the findings by the board of trustees as a matter of law do not support the decision.

(n) The determination of the board of trustees shall be affirmed unless the court finds that the action of the board of trustees was:

(i) In violation of constitutional or statutory provisions;

(ii) In excess of the statutory authority of the board;

(iii) Made upon unlawful procedure; or

(iv) Arbitrary, capricious or an abuse of discretion.

Approved April 11, 2013.

CHAPTER 332  
(S.B. No. 1156)

AN ACT

RELATING TO IRRIGATION DISTRICTS; PROVIDING LEGISLATIVE INTENT; AMENDING CHAPTER 13, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1314, IDAHO CODE, TO PROVIDE FOR THE PARTITION OF CERTAIN IRRIGATION DISTRICTS AND TO PROVIDE FOR PETITIONS TO PARTITION; AMENDING CHAPTER 13, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1315, IDAHO

CODE, TO PROVIDE FOR THE FILING OF PETITIONS AND TO PROVIDE THAT THE PETITIONS ALONG WITH MAPS AND OTHER PAPERS FILED THEREWITH SHALL BE OPEN TO PUBLIC INSPECTION; AMENDING CHAPTER 13, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1316, IDAHO CODE, TO PROVIDE THAT CERTAIN MAPS SHALL ACCOMPANY PETITIONS; AMENDING CHAPTER 13, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1317, IDAHO CODE, TO PROVIDE FOR BOND; AMENDING CHAPTER 13, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1318, IDAHO CODE, TO PROVIDE FOR NOTICE RELATING TO THE FILING OF PETITIONS FOR PARTITION AND TO PROVIDE REQUIREMENTS RELATING TO SUCH NOTICES; AMENDING CHAPTER 13, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1319, IDAHO CODE, TO PROVIDE FOR NOTICES OF HEARING AND TO PROVIDE REQUIREMENTS RELATING TO SUCH NOTICES; AMENDING CHAPTER 13, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1320, IDAHO CODE, TO PROVIDE FOR EXAMINATION BY THE DEPARTMENT OF WATER RESOURCES, TO PROVIDE FOR REPORTS AND TO REQUIRE THE BOARD OF COUNTY COMMISSIONERS TO NOTIFY THE DEPARTMENT OF THE FINAL ACTION TAKEN ON THE PETITION; AMENDING CHAPTER 13, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1321, IDAHO CODE, TO PROVIDE CONDITIONS UNDER WHICH ORDERS SHALL BE ISSUED, TO PROVIDE THAT CERTAIN BOUNDARIES SHALL NOT BE MODIFIED, TO PROVIDE FOR THE INCLUSION OF CERTAIN LAND WITHIN THE NEW IRRIGATION DISTRICT AND TO PROVIDE THAT SUPPLEMENTAL PETITIONS MAY BE ACCEPTED PRIOR TO THE DATE OF HEARING; AMENDING CHAPTER 13, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1322, IDAHO CODE, TO PROVIDE FOR ORDERS DIVIDING NEWLY PARTITIONED IRRIGATION DISTRICTS INTO DIVISIONS, TO PROVIDE CERTAIN REQUIREMENTS, TO PROVIDE FOR THE ELECTION OF DIRECTORS, TO PROVIDE THAT CERTAIN INFORMATION RELATING TO DIVISIONS BE INCLUDED IN THE PETITION, TO PROVIDE FOR AN ALTERNATIVE NUMBER OF DISTRICTS AND TO PROVIDE THAT THE REMAINING IRRIGATION DISTRICT SHALL BE DIVIDED INTO DIVISIONS; AMENDING CHAPTER 13, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1323, IDAHO CODE, TO PROVIDE FOR THE EFFECTIVE DATE OF THE PARTITION, TO REQUIRE THE NEWLY PARTITIONED IRRIGATION DISTRICT TO TAKE CERTAIN ACTION AND TO PROVIDE FOR APPEAL FROM OR JUDICIAL CHALLENGE TO ORDERS; AMENDING CHAPTER 13, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1324, IDAHO CODE, TO PROVIDE FOR THE JOINT OWNERSHIP OF CERTAIN REAL OR PERSONAL PROPERTIES, TO PROVIDE FOR PROPORTIONATE HOLDINGS OF CANALS AND LATERALS, TO PROVIDE FOR THE PROPORTIONATE OBLIGATION OF OUTSTANDING DEBT AND TO PROVIDE FOR THE DIVISION OF ASSESSMENTS; AMENDING CHAPTER 13, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1325, IDAHO CODE, TO PROVIDE FOR A JOINT BOARD OF CONTROL; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. LEGISLATIVE INTENT. The purpose of this act is to authorize the owners of land within an irrigation district that delivers only natural flow water rights, whose land is served by the irrigation district and who own the water rights appurtenant to that land, to partition the irrigation district into separate irrigation districts in order to preserve and protect the agricultural uses of the district lands, to provide for continuation of the irrigation of those lands and to set forth guidelines for ownership and operation of irrigation works between the newly partitioned irrigation districts.

SECTION 2. That Chapter 13, Title 43, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 43-1314, Idaho Code, and to read as follows:

43-1314. PETITION. The owners of a majority of the land in an irrigation district that is operated and maintained exclusively to deliver natural flow water rights, who also hold title to the water rights appurtenant to that land, and whose water rights are delivered by an organized irrigation district, may petition to partition the irrigation district into two (2) separate irrigation districts, which shall be known for purposes of this act as the new irrigation district and the remaining irrigation district. For each parcel of land that is proposed to be included in the new irrigation district, the petition shall set forth the following:

- (1) Irrigation district assessment number;
- (2) Tax lot or legal description to identify the property;
- (3) Owner of the property;
- (4) Individual water rights that are appurtenant to each property;
- (5) A general characterization of the property as agricultural, residential or commercial; and
- (6) The number of divisions into which the district shall be divided.

The petition must be signed by each landowner who desires to be included in the new irrigation district and their signature shall constitute consent to the partition and consent to have their water rights delivered and distributed by the new irrigation district.

SECTION 3. That Chapter 13, Title 43, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 43-1315, Idaho Code, and to read as follows:

43-1315. SUBMISSION OF PETITION TO COUNTY. The petition shall be filed with the clerk of the board of county commissioners of the county in which the greatest proportion of the proposed new irrigation district is situated. The petition, together with all maps and other papers filed therewith, shall at all proper hours be open to public inspection in the office of the clerk of the board between the date of the filing and the date of the hearing thereon.

SECTION 4. That Chapter 13, Title 43, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 43-1316, Idaho Code, and to read as follows:

43-1316. MAPS AND WATER SUPPLY DATA. The petitioners must accompany the petition with a map of the proposed district. The map shall show the location of the canals situated within the boundaries of the proposed partitioned district.

SECTION 5. That Chapter 13, Title 43, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 43-1317, Idaho Code, and to read as follows:

43-1317. BOND. The petitioners shall accompany the petition with a bond to be approved by the board of county commissioners in double the amount of the probable cost of the county organizing a new irrigation district, conditioning that the bondsman will pay all costs, in the event the new irrigation district is not organized.

SECTION 6. That Chapter 13, Title 43, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 43-1318, Idaho Code, and to read as follows:

43-1318. NOTICE OF PRESENTATION TO COMMISSIONERS. Upon filing of a petition with the clerk of the board of county commissioners, the clerk shall publish a notice that a petition for the partition of an irrigation district has been filed, setting forth the first signature on the petition. The notice shall provide the time at which the petition will be presented to the

board, which shall be during a regular meeting of the board or during a special meeting called for that purpose. The notice shall be published at least two (2) weeks prior to the day upon which the petition is to be presented in a newspaper of general circulation in the county. If any portion of the proposed partitioned district be within another county or counties, the notice shall also be published in a newspaper of general circulation in each of those counties.

SECTION 7. That Chapter 13, Title 43, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 43-1319, Idaho Code, and to read as follows:

43-1319. NOTICE OF HEARING. When a petition is presented to the board, the board shall set a time for hearing, which time shall not be less than four (4) nor more than eight (8) weeks from the date of the presentation. Notice of the time of hearing shall be published by the board at least three (3) weeks prior to the time of hearing in a newspaper of general circulation published within each of the counties in which any part of the proposed partitioned district is situated.

SECTION 8. That Chapter 13, Title 43, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 43-1320, Idaho Code, and to read as follows:

43-1320. EXAMINATION BY DEPARTMENT OF WATER RESOURCES. A copy of the petition and all maps and other papers filed with the board of county commissioners shall be filed in the office of the department of water resources by the board at least four (4) weeks prior to the date set for the hearing. The department may examine the petition, maps and other papers and if it deems it necessary, the department may prepare a report upon the matter in such form as it deems advisable. Any report prepared by the department shall be submitted to the board a minimum of seven (7) calendar days before the hearing on the petition and shall be available for public inspection. It shall be the duty of the board to notify the department of water resources of the final action, either favorable or unfavorable, taken on a petition for the partition of an irrigation district.

SECTION 9. That Chapter 13, Title 43, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 43-1321, Idaho Code, and to read as follows:

43-1321. ORDER OF THE BOARD. If it appears to the board of county commissioners that the holders of evidence of title to a majority of the acreage with water rights delivered by the irrigation district within the boundaries of an existing irrigation district have properly signed a petition and approved the partition of the irrigation district, that the holders of evidence of title to such land signing the petition are also holders of title to the water rights appurtenant to the land and it appears that the majority of the acreage with water rights delivered by the irrigation district described in the petition is of an agricultural character, the board shall issue an order partitioning the irrigation district as set forth in the petition. The board shall not modify the boundaries set forth in the original petition. Provided however, the board may permit any holder of evidence of title to land lying within the boundaries of the original district of forty (40) acres or more in size used primarily for agricultural purposes to include such land in the new irrigation district, if such landowner has filed a separate petition with the board establishing that such land meets all the criteria required to have been joined in the original petition, including

ownership of water rights appurtenant to the land. Supplemental petitions may be accepted at any time prior to the date of hearing.

SECTION 10. That Chapter 13, Title 43, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 43-1322, Idaho Code, and to read as follows:

43-1322. DIVISIONS OF DISTRICT FOR ELECTION OF DIRECTORS. The board of county commissioners shall also enter an order dividing the new partitioned irrigation district into not less than three (3) nor more than seven (7) divisions of as nearly equal size as practical, which shall be numbered first, second, third, etc. One (1) director, who shall be an elector and resident in the division, shall be elected from each division of the district. Provided however, that in districts of three thousand (3,000) acres or less, the directors may be elected from qualified electors holding title or evidence of title to land in the district and residing in the county where some portion of the district is located. The number of divisions into which the district shall be divided shall be specified in the petition for the partition of the new irrigation district, and if not otherwise specified, shall be three (3). The board shall also enter an order dividing the remaining irrigation district after partition into the same number of divisions of as nearly equal size as practical as existed in the original irrigation district prior to partition.

SECTION 11. That Chapter 13, Title 43, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 43-1323, Idaho Code, and to read as follows:

43-1323. EFFECTIVE DATE OF PARTITION -- CHALLENGES TO PARTITION. The effective date of the partition of the existing district into two (2) districts shall be as of the date of the order of the board of county commissioners. Following the effective date of the partition order by the board, the newly partitioned irrigation district shall immediately undertake to reorganize, elect officers as set forth in section 43-301, Idaho Code, and exercise all powers and duties of an irrigation district. Any appeal from, or judicial challenge to, the order of the board partitioning the irrigation district must be brought in the county where the board sits within ninety (90) days from the effective date of the order or be forever barred.

SECTION 12. That Chapter 13, Title 43, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 43-1324, Idaho Code, and to read as follows:

43-1324. JOINT WORKS -- JOINTLY HELD PROPERTY. The irrigation works and any other real or personal property held by the original irrigation district prior to the partition shall belong to the partitioned irrigation districts jointly as provided in this section. All canals and laterals that deliver water to members of both districts shall be held by each district in proportion to the total quantity of water delivered to members of each district through each individual diversion work, canal and lateral. All other real and personal property shall be held jointly by the two (2) districts in proportion to the total quantity of water rights held by the members of each district that are appurtenant to lands within the newly partitioned district. Any outstanding debts of the district prior to partition shall be joint obligations of the two (2) newly partitioned districts after the partition in proportion to the total quantity of water rights held by members of each district within the newly partitioned districts. All assessments collected from landowners shall be provided to the new districts based upon

the location of the land after the partition, less the proportionate share of expenses incurred prior to the effective date of the order of partition.

SECTION 13. That Chapter 13, Title 43, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 43-1325, Idaho Code, and to read as follows:

43-1325. JOINT OPERATION. Whenever the partitioned irrigation districts share irrigation works, canals and laterals after the partition takes effect, a joint board of control, not exceeding seven (7) members, shall be chosen by the board of directors of the respective partitioned irrigation districts, the members of which shall be apportioned to each district as nearly as practicable in accordance with the acreage for which water shall be provided in each respective district. Said board of control shall control, manage and operate such joint works subject to the board of directors of the respective districts and each member of the board of control shall hold office at the will of the board of directors of the district appointing such member.

SECTION 14. 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 15. 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 April 11, 2013.

CHAPTER 333  
(S.B. No. 1157)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-119, IDAHO CODE, TO PROVIDE THAT CERTAIN LIMITED LIABILITY COMPANIES SHALL HAVE THE SAME RIGHTS AND PRIVILEGES IN THE CONDUCT OF IRRIGATION DISTRICT BUSINESS AS DO NATURAL PERSONS, TO REVISE PROVISIONS RELATING TO VOTING AND OTHERWISE ACTING IN REGARD TO IRRIGATION DISTRICT BUSINESS BY CORPORATIONS, LIMITED LIABILITY COMPANIES, PARTNERSHIPS AND TRUSTS, TO REQUIRE CERTAIN ENTITIES TO FURNISH IRRIGATION DISTRICTS WITH WRITTEN DESIGNATIONS OF THOSE AUTHORIZED TO VOTE OR OTHERWISE ACT FOR THE ENTITY UNDER SPECIFIED CONDITIONS, TO REVISE PROVISIONS RELATING TO THE AUTHORITY OF SPOUSES AND TO REVISE PROVISIONS RELATING TO CERTAIN RESTRICTIONS ON VOTING.

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

SECTION 1. That Section 43-119, Idaho Code, be, and the same is hereby amended to read as follows:

43-119. RIGHTS AND PRIVILEGES OF CORPORATIONS -- LIMITED LIABILITY COMPANIES -- PARTNERSHIPS -- TRUSTS. A corporation, the stock of which is owned entirely by natural persons related by blood or affinity, a limited liability company, in which all the members are natural persons related by blood or affinity, a partnership, in which all the partners are natural persons related by blood or affinity, and a trust, in which all of the

beneficiaries are natural persons related by blood or affinity, shall have the same rights and privileges in the conduct of irrigation district business as do natural persons, including, but not limited to, voting in elections and signing petitions. ~~A corporation, partnership or trust shall vote or otherwise act by and through its majority stockholder, majority partner or trustee and for voting purposes the residence of such majority stockholder, partner or trustee shall establish the residence of the corporation, partnership or trust. If the majority of the stock or partnership interest is owned by more than one (1) person, or if there is more than one (1) trustee,~~ A corporation shall vote or otherwise act through its majority shareholder; a limited liability company shall vote or otherwise act, if member-managed, through its member and, if manager-managed, through its manager; a partnership shall vote or otherwise act through its majority partner; a trust shall vote or otherwise act through its trustee. For voting purposes the residence of such person shall establish the residence of the corporation, limited liability company, partnership or trust. If there is no single majority stockholder, no single majority member, no single manager, no single majority partner or no single trustee, then the corporation, limited liability company, partnership or trust must furnish the irrigation district a written designation stating the name of the majority stockholder, manager or member, partner or trustee who is authorized to vote and otherwise act for the corporation, limited liability company, partnership or trust, respectively. If the majority or designated stockholder, manager or member, partner or trustee is married, his or her spouse shall have the same rights and privileges in the conduct of irrigation district business as do the spouses of individual land owners in the district. A person, or the spouse of a person, voting for a corporation, limited liability company, partnership or trust shall not be entitled to vote again as an individual.

Approved April 11, 2013.

CHAPTER 334  
(S.B. No. 1158)

AN ACT

RELATING TO SOCIAL SECURITY BENEFITS; AMENDING SECTION 59-1101, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE CORRECT CITATIONS, TO PROVIDE THAT SOCIAL SECURITY BENEFITS EXTEND TO POLICE OFFICERS AND FIREFIGHTERS, TO DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 59-1101, Idaho Code, be, and the same is hereby amended to read as follows:

59-1101. ACCEPTANCE OF BENEFITS OF FEDERAL SOCIAL SECURITY ACT. (1) The state of Idaho ~~in~~ on behalf of all of its officers and employees and the officers and employees of all of its agencies, counties, and cities, and towns and of any and all of its municipal corporations and, political subdivisions, including, for the purpose of this chapter, drainage districts organized under chapter 29, title 42, Idaho Code, and irrigation districts organized under chapter 1, title 43, Idaho Code, and water districts and boards of control of federal reclamation projects, and soil conservation districts, and housing authorities organized and created pursuant to chapter 44, title 50, governmental entities, independent bodies corporate and politic or any legal entity independently or collectively providing governmental functions and created pursuant to Idaho Code, hereby accepts

the benefits of the provisions of the Federal social Security Act, 53 Stat. 1373, for Old Age and Survivors' Insurance Benefits of 1935, as amended thereto, whenever the provisions of such act are extended to embrace their officers and employees; provided, however, that any services of an emergency nature, positions the compensation for which is on a fee basis, or service performed by a student, pursuant to 42 U.S.C. section 418(c) (6) shall not be considered as employment within the meaning of this chapter.

(2) Pursuant to the provisions of 42 U.S.C. section 418(d) (1), (d) (3) and (1), the benefits described in this section are extended to police officer positions and firefighter positions covered by a retirement system.

(a) For the purposes of social security coverage and the provisions of this section, a "police officer position" means a paid position existing in the regularly organized police department or police force of the state or any political subdivision created pursuant to Idaho Code, whose primary duties and principal accountability consists of one (1) or more of the characteristics of maintaining order, preventing and detecting crime and enforcing the laws of the state or any political subdivision.

(b) For the purposes of social security coverage and the provisions of this section, a "firefighter position" means a paid position existing in the organized fire department, district or association of incorporated municipalities, counties, state agencies or any political subdivision created pursuant to Idaho Code, whose primary duties and principal accountability consists of the prevention, pre-suppression, suppression and extinguishment of fires. A "firefighter position" includes positions such as a fire marshal whose principal accountability is to investigate the cause and origin of fires and includes a fire chief, fire captain and fire warden whose primary position and principal accountability requires direct supervision of employees engaged in the prevention, pre-suppression, suppression and extinguishment of fires. A "firefighter position" does not include an employee who may be required on occasion to engage in firefighter activities as a secondary requirement of the position.

(c) The terms "police officer position" and "firefighter position" do not include services in positions that, although connected with police officer and firefighter functions, are not police officer or firefighter positions.

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 April 11, 2013.

CHAPTER 335  
(S.B. No. 1189)

AN ACT

RELATING TO STATUTORY INTERPRETATION; AMENDING SECTION 73-113, IDAHO CODE, TO PROVIDE FOR PRINCIPLES OF STATUTORY CONSTRUCTION OF THE IDAHO CODE.

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

SECTION 1. That Section 73-113, Idaho Code, be, and the same is hereby amended to read as follows:



73-113. CONSTRUCTION OF WORDS AND PHRASES. (1) The language of a statute should be given its plain, usual and ordinary meaning. Where a statute is clear and unambiguous, the expressed intent of the legislature shall be given effect without engaging in statutory construction. The literal words of a statute are the best guide to determining legislative intent.

(2) If a statute is capable of more than one (1) conflicting construction, the reasonableness of the proposed interpretations shall be considered, and the statute must be construed as a whole. Interpretations which would render the statute a nullity, or which would lead to absurd results, are disfavored.

(3) Words and phrases are construed according to the context and the approved usage of the language, but technical words and phrases, and such others as have acquired a peculiar and appropriate meaning in law, or are defined in the succeeding section, are to be construed according to such peculiar and appropriate meaning or definition.

Approved April 11, 2013.

CHAPTER 336  
(S.B. No. 1191)

AN ACT

RELATING TO INITIATIVE AND REFERENDUM ELECTIONS; AMENDING SECTION 34-1801A, IDAHO CODE, AS AMENDED IN SECTION 1 OF SENATE BILL NO. 1108, AS ENACTED BY THE FIRST REGULAR SESSION OF THE SIXTY-SECOND IDAHO LEGISLATURE, TO PROVIDE THAT THE DESIGNATION OF A LEGISLATIVE DISTRICT SHALL BE FOR OFFICIAL USE ONLY; AMENDING SECTION 34-1804, IDAHO CODE, AS AMENDED IN SECTION 2 OF SENATE BILL NO. 1108, AS ENACTED BY THE FIRST REGULAR SESSION OF THE SIXTY-SECOND IDAHO LEGISLATURE, TO REMOVE A REQUIREMENT THAT A CERTAIN SIGNATURE SHEET CONTAIN SIGNATURES OF QUALIFIED ELECTORS FROM A LEGISLATIVE DISTRICT; AMENDING SECTION 34-1807, IDAHO CODE, AS AMENDED IN SECTION 4 OF SENATE BILL NO. 1108, AS ENACTED BY THE FIRST REGULAR SESSION OF THE SIXTY-SECOND IDAHO LEGISLATURE, TO REVISE PROVISIONS RELATING TO CERTAIN PETITIONS AND SIGNATURE SHEETS; PROVIDING AN EFFECTIVE DATE AND APPLICATION.

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

SECTION 1. That Section 34-1801A, Idaho Code, as amended in Section 1 of Senate Bill No. 1108, as enacted by the First Regular Session of the Sixty-second Legislature Idaho Legislature, be, and the same is hereby amended to read as follows:

34-1801A. PETITION. The following shall be substantially the form of petition for any law proposed by the initiative:

WARNING

It is a felony for anyone to sign any initiative or referendum petition with any name other than his own, or to knowingly sign his name more than once for the measure, or to sign such petition when he is not a qualified elector.

INITIATIVE PETITION

To the Honorable . . . , Secretary of State of the State of Idaho:

"We, the undersigned citizens and qualified electors of the State of Idaho, respectfully demand that the following proposed law, to-wit: (setting out full text of measure proposed) shall be submitted to the qualified electors of the State of Idaho, for their approval or rejection at the regular general election, to be held on the . . . day of . . . , A.D., . . . , and each for himself says: I have personally signed this petition; I am a qualified elector of the

State of Idaho; my residence and legislative district are correctly written after my name.

Signature	Printed	Residence	City	Legislative	Date
	Name	Street		District	<u>Legislative</u>
		and		<u>Date</u>	<u>District</u>
		Number			<u>Official</u>
					<u>use only</u>

(Here follow twenty numbered lines for signatures.)

The petition for referendum on any act passed by the state legislature of the state of Idaho shall be in substantially the same form with appropriate title and changes, setting out in full the text of the act of the legislature to be referred to the people for their approval or rejection.

SECTION 2. That Section 34-1804, Idaho Code, as amended in Section 2 of Senate Bill No. 1108, as enacted by the First Regular Session of the Sixty-second Idaho Legislature, be, and the same is hereby amended to read as follows:

34-1804. PRINTING OF PETITION AND SIGNATURE SHEETS. Before or at the time of beginning to circulate any petition for the referendum to the people on any act passed by the state legislature of the state of Idaho, or for any law proposed by the initiative, the person or persons or organization or organizations under whose authority the measure is to be referred or initiated shall send or deliver to the secretary of state a copy of such petition duly signed by at least twenty (20) qualified electors of the state which shall be filed by said officer in his office, and who shall immediately transmit a copy of the petition to the attorney general for the issuance of the certificate of review as provided in section 34-1809, Idaho Code. All petitions for the initiative and for the referendum and sheets for signatures shall be printed on a good quality of bond or ledger paper in the form and manner as approved by the secretary of state. To every sheet of petitioners' signatures shall be attached a full and correct copy of the measure so proposed by initiative petition; but such petition may be filed by the secretary of state in numbered sections for convenience in handling. Every sheet of petitioners' signatures upon referendum petitions shall be attached to a full and correct copy of the measure on which the referendum is demanded, and may be filed in numbered sections in like manner as initiative petitions. Not more than twenty (20) signatures on one (1) sheet shall be counted. Each signature sheet shall contain signatures of qualified electors from only one (1) county and legislative district.

SECTION 3. That Section 34-1807, Idaho Code, as amended in Section 4 of Senate Bill No. 1108, as enacted by the First Regular Session of the Sixty-second Legislature Idaho Legislature, be, and the same is hereby amended to read as follows:

34-1807. CIRCULATION OF PETITIONS -- VERIFICATION OF PETITION AND SIGNATURE SHEETS -- COMPARISON OF SIGNATURES WITH REGISTRATION OATHS AND RECORDS -- CERTAIN PETITIONS AND SIGNATURES VOID. Any person who circulates any petition for an initiative or referendum shall be a resident of the state of Idaho and at least eighteen (18) years of age. Each and every sheet of every such petition containing signatures shall be verified on the face thereof in substantially the following form, by the person who circulated said sheet of said petition, by his or her affidavit thereon, and as a part thereof:

State of Idaho )
) ss.
County of.... )

I, . . . . , being first duly sworn, say: That I am a resident of the State of Idaho and at least eighteen (18) years of age: that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence: I believe that each has stated his or her name, legislative district address and residence correctly, that each signer is a qualified elector of the State of Idaho, and a resident of legislative district number . . . . in the county of . . . . .

Signed . . . . .

Post-office address . . . . .

Subscribed and sworn to before me this . . . . day of . . . .

(Notary Seal)

Notary Public . . . . .

Residing at . . . . .

In addition to said affidavit the county clerk shall carefully examine said petitions and shall attach to the signature sheets a certificate to the secretary of state substantially as follows:

State of Idaho )
) ss.
County of.... )

To the honorable . . . . , Secretary of State for the State of Idaho: I, . . . . , County Clerk of . . . . County, hereby certify that . . . . signatures on this petition are those of qualified electors in legislative district number . . . . .

Signed . . . . .

County Clerk or Deputy.

(Seal of office)

The county clerk shall deliver the petition or any part thereof to the person from whom he received it with his certificate attached thereto as above provided. The forms herein given are not mandatory and if substantially followed in any petition, it shall be sufficient, disregarding clerical and merely technical error.

Any petition upon which signatures are obtained by a person not a resident of the state of Idaho and at least eighteen (18) years of age, shall be void. The definition of resident in section 34-107, Idaho Code, shall apply to the circulators of initiative and referendum petitions. In addition to being a resident, a petition circulator shall be at least eighteen (18) years of age.

SECTION 4. This act shall be in full force and effect on and after July 1, 2013, and shall apply to those initiative or referendum petitions that have been assigned a ballot title by the Attorney General on and after July 1, 2013, and those initiative or referendum petitions filed prior to July 1, 2013, shall have the provisions of Chapter 18, Title 34, Idaho Code, that were in existence prior to July 1, 2013, apply to them.

Approved April 11, 2013.

CHAPTER 337  
(S.B. No. 1192, As Amended)

AN ACT

RELATING TO THE CAPITOL MALL; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5709B, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR OF THE DIVISION OF PUBLIC WORKS SHALL DEVELOP FACILITIES IN THE CAPITOL MALL AND TO CREATE A PROCESS FOR EXEMPTING A CERTAIN CAPITOL MALL PARKING FACILITY FROM PLANNING AND ZONING RESTRICTIONS; DECLARING AN EMERGENCY AND PROVIDING A SUNSET DATE.

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 67-5709B, Idaho Code, and to read as follows:

67-5709B. DEVELOPMENT OF FACILITIES. To the extent funds are available therefor, the administrator of the division of public works shall develop state-owned facilities or facilities constructed through the state building authority within the state capitol mall. The state capitol mall shall include the capitol mall properties set forth in section 67-5709, Idaho Code, or in rules promulgated pursuant thereto. Notwithstanding any other provisions of law to the contrary, the director of the department of administration, subject to the approval of the permanent building fund advisory council, may exempt the parking facility at 6th Street and Washington Street occupying block 96 as shown on the Boise City original townsite plat from local land use planning ordinances established pursuant to chapter 65, title 67, Idaho Code. Neither the designation of facilities as exempt from local land use planning ordinances by the director nor the approval of the permanent building fund advisory council shall be subject to judicial review under the provisions of chapter 52, title 67, 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 shall be null, void and of no force and effect on and after June 30, 2014.

Approved April 11, 2013.

CHAPTER 338  
(S.B. No. 1199)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1002, IDAHO CODE, TO PROVIDE FOR DIFFERENTIAL PAY AND TO PROVIDE FOR TECHNOLOGY PILOT PROJECTS; AMENDING SECTION 33-1002, IDAHO CODE, AS AMENDED BY SECTION 1 OF THIS ACT, TO REMOVE LANGUAGE RELATING TO DIFFERENTIAL PAY AND TECHNOLOGY PILOT PROJECTS; AMENDING SECTION 33-1004F, IDAHO CODE, TO REVISE PROVISIONS RELATING TO OBLIGATIONS TO RETIREMENT AND SOCIAL SECURITY BENEFITS; AMENDING SECTION 33-1004F, IDAHO CODE, AS AMENDED BY SECTION 3 OF THIS ACT, TO REVISE PROVISIONS RELATING TO OBLIGATIONS TO RETIREMENT AND SOCIAL SECURITY BENEFITS; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1004J, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO DIFFERENTIAL PAY AND EXCELLENCE IN ACHIEVEMENT AWARDS, TO ESTABLISH PROVISIONS RELATING TO THE DISTRIBUTION OF CERTAIN

MONEYS AND TO DEFINE TERMS; AMENDING CHAPTER 48, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-4811, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO TECHNOLOGY PILOT PROJECTS; REPEALING SECTION 33-1004J, IDAHO CODE, RELATING TO DIFFERENTIAL PAY AND EXCELLENCE IN ACHIEVEMENT AWARDS; REPEALING SECTION 33-4811, IDAHO CODE, RELATING TO TECHNOLOGY PILOT PROJECTS; ESTABLISHING PROVISIONS RELATING TO DISCRETIONARY FUNDS; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. 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 differential pay as provided in section 33-1004J, Idaho Code;

(m) For technology pilot projects as provided in section 33-4811, Idaho Code;

(n) 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

(mo) 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 cal-

culatation 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 . . . . .	. . . . .	.. 15
	..23 . . . . .grades 4, 5 & 6 . . . .	
	..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 tenth.
- (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 tenth 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 tenth, 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 2. That Section 33-1002, Idaho Code, as amended by Section 1 of this act, 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 differential pay as provided in section 33-1004J, Idaho Code;~~
- ~~(m) For technology pilot projects as provided in section 33-4811, Idaho Code;~~
- ~~(n) 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~~
- ~~(om) 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 . . . . .	. . . . .	.. 15
	..23...grades 4,5 & 6 . . . .	
	..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 tenth.

(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 tenth 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 tenth, 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 33-1004F, 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, there shall be allocated that amount required to meet the employer's obligations to the public employee retirement system and to social security. In addition, from the moneys distributed pursuant to section 33-1004J, Idaho Code, there shall be allocated the portion required to meet the employer's obligations to the public employee retirement system and to social security for the remainder of the moneys so distributed.

~~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 4. That Section 33-1004F, Idaho Code, as amended by Section 3 of this act, 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, there shall be allocated that amount required to meet the employer's obligations to the public employee retirement system and to social security. ~~In addition, from the moneys distributed pursuant to section 33-1004J, Idaho Code, there shall be allocated the portion required to meet the employer's obligations to the public employee retirement system and to social security for the remainder of the moneys so distributed.~~

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. DIFFERENTIAL PAY. Of amounts appropriated for the educational support program, moneys shall be distributed for differential pay as provided for in section 33-1002, Idaho Code. Moneys for the differential pay program shall be distributed to school districts requesting grant funds for local excellence in achievement awards. Such distribution shall be based upon each requesting school district's number of support units used to calculate salary-based apportionment, as compared to the total number of such support units for all such school districts requesting such funds. Funds received shall be paid to certificated or noncertificated employees, subject

to local excellence in achievement plans, pursuant to the following criteria:

(1) All plans shall be approved by the local board of trustees, including evidence that the plan was developed with input from the principal, teachers and certificated employees at each school.

(2) Such plan shall not be subject to collective bargaining, any other provision of law notwithstanding.

(3) The plan may allow expenditure of up to forty percent (40%) of the funds for professional development, leadership and resources necessary to implement Idaho core mathematical and English language arts standards.

(4) The plan shall delineate how the moneys will be used for excellence in achievement awards, including the establishment of goals and identifying objective measures of growth in student achievement to be used.

(5) Awards shall be directed at the schoolwide level, the individual level or any other grouping below the schoolwide level.

(6) The plan and grant funds request shall be submitted to the state department of education by no later than October 1, 2013, and funds shall be distributed by the department no later than February 15, 2014.

(7) Each school district receiving grant funds shall submit a report to the state department of education at the end of the fiscal year that details the plan's student achievement results based upon the established criteria. Such report shall include, but not be limited to, measures of growth in student achievement, target benchmarks, results of those measures, and information on the amount of the funds awarded, by individual. The report shall also include a narrative on the effectiveness of the awards in reaching the goals.

(8) Each submitted plan and report shall be posted to the school district and state department of education websites. In addition, the state department of education shall conduct a comparison study of the characteristics, process and features of each plan to the results achieved and shall post such study to its website.

(9) A portion of the moneys so distributed shall be utilized to pay any variable rate-based employer benefit costs.

(10) The payment of any funds to an employee pursuant to this section shall not create any requirement that a school district maintain or repeat such a payment in the future.

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."

SECTION 6. That Chapter 48, 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 33-4811, Idaho Code, and to read as follows:

33-4811. TECHNOLOGY PILOT PROJECTS. Of amounts appropriated for the educational support program, funding shall be made available to public schools and public charter schools in multiple school districts for grants of one (1) to two (2) years in duration for technology pilot projects designed to improve student academic growth. Funds shall be distributed based upon a competitive grant process prescribed by the superintendent of public instruction. The amount of funds allocated to a public school or public charter school shall not be based upon average daily attendance or other enrollment-driven metrics. Grant applications shall include, but not be limited to, historical growth measures and expected increases through implementation of this technology. The grantees shall be required to report annually to the state department of education on the uses of funds received and the student growth results from those uses. The superintendent shall report to the legislature on the results of these efforts by December 31, 2014.

SECTION 7. That Sections 33-1004J and 33-4811, Idaho Code, be, and the same are hereby repealed.

SECTION 8. DISCRETIONARY FUNDS. The Legislature recognizes that school districts may have utilized discretionary funds during fiscal year 2010 through fiscal year 2013 to offset reductions in state-funded line items. School districts retain the authority to displace such discretionary funds with increased state funds provided in fiscal year 2014, if the discretionary funds were used previously for the purposes for which increased state funds are provided in fiscal year 2014. For the purposes of this section, the term "school district" also means "public charter school."

SECTION 9. Sections 1, 3, 5, 6 and 8 of this act shall be in full force and effect on and after July 1, 2013. Sections 2, 4 and 7 of this act shall be in full force and effect on and after July 1, 2014.

Approved April 11, 2013.

CHAPTER 339  
(H.B. No. 45, As Amended)

AN ACT

RELATING TO ENGINEERS AND SURVEYORS; AMENDING SECTION 54-1202, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1220, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DISCIPLINARY ACTIONS AND PROCEDURES; AMENDING SECTION 54-1221, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE REISSUANCE OF LICENSES, TO PROVIDE REQUIREMENTS RELATING TO THE REISSUANCE OF WALL CERTIFICATES AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 54-1228, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 54-1202, Idaho Code, be, and the same is hereby amended to read as follows:

54-1202. DEFINITIONS. As used in this chapter, unless the context or subject matter requires otherwise:

(1) "Benchmark" means a material object, natural or artificial, whose elevation is referenced to an adopted datum.

(2) "Board" means the Idaho board of licensure of professional engineers and professional land surveyors, hereinafter provided by this chapter.

(3) "Business entity" means a corporation, professional corporation, limited liability company, professional limited liability company, general partnership, limited partnership, limited liability partnership, professional limited liability partnership or any other form of business except a sole proprietorship.

(4) "Consulting engineer" means a professional engineer whose principal occupation is the independent practice of professional engineering; whose livelihood is obtained by offering engineering services to the public; who is devoid of public, commercial and product affiliation that might tend to infer a conflict of interest; and who is cognizant of his public and legal responsibilities, and is capable of discharging them.

(5) "Engineer" means a person who is qualified to practice engineering by reason of his special knowledge and use of mathematical, physical and en-

gineering sciences, and the principles and methods of engineering analysis and design, acquired by professional education and engineering experience.

(6) "Engineer intern" means a person who has qualified for, taken and passed an examination in the fundamentals of engineering subjects as provided in this chapter.

(7) "Land survey" means measuring the field location of corners that:

(a) Determine the boundary or boundaries common to two (2) or more ownerships;

(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.

(8) "Land surveyor intern" means a person who has qualified for, taken and passed an examination in the fundamentals of surveying subjects as provided in this chapter.

(9) "Professional engineer" means a person who has been duly licensed as a professional engineer by the board under this chapter.

(10) "Professional engineering" and "practice of professional engineering" mean any service or creative work offered to or performed for the public for any project physically located in this state, such as consultation, investigation, evaluation, planning, designing, teaching upper division engineering design subjects, and responsible charge of observation of construction in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects or to certify elevation information, wherein the public welfare or the safeguarding of life, health, or property is concerned or involved, when such service requires the application of engineering principles and data. A person shall be construed to practice or offer to practice professional engineering within the meaning and intent of this chapter who practices or offers to practice any of the branches of the profession of engineering for the public for any project physically located in this state or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer or through the use of some other title implies that he is a professional engineer or that he is licensed under this chapter, or holds himself out as able to perform or who does perform for the public for any project physically located in this state, any engineering service or work or any other service designated by the practitioner which is the practice of professional engineering.

(11) "Professional land surveying" and "practice of professional land surveying" mean responsible charge of land surveying to determine the correct boundary description, to establish or reestablish land boundaries, ~~or~~ to plat lands and subdivisions thereof or to certify elevation information. Any person shall be construed to practice or offer to practice professional land surveying who engages in professional land surveying, or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional land surveyor, or who represents himself as able to perform or who does perform any professional land surveying service or work or any other service designated by the practitioner which is professional land surveying.

(12) "Professional land surveyor" means a person who is qualified by reason of his knowledge of the principles of land surveying acquired by education and practical experience to engage in the practice of professional land surveying and who has been duly licensed as a professional land surveyor by the board under this chapter.

(13) "Public" means any person, firm, corporation, partnership, company, government agency, institution or any other entity recognized by law.

(14) "Responsible charge" means the control and direction of engineering work, or the control and direction of land surveying work, requiring initiative, professional skill, independent judgment and professional knowl-

edge of the content of relevant documents during their preparation. Except as allowed under section 54-1223, Idaho Code, reviewing, or reviewing and correcting, documents after they have been prepared by others does not constitute the exercise of responsible charge.

(15) "Rules of professional responsibility" means those rules, if any, promulgated by the board, as authorized by the Idaho Code.

(16) "Signature" means either: an original handwritten message identification containing the name of the person who applied it; or a digital signature which is an electronic authentication process attached to or logically associated with an electronic document. The digital signature must be unique to the person using it; must be capable of verification; must be under the sole control of the person using it; and must be linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

(17) "Standard design plan" means a building, structure, equipment or facility which is intended to be constructed or sited at multiple locations and for which some or all of the plans must be prepared by a professional engineer.

SECTION 2. That Section 54-1220, Idaho Code, be, and the same is hereby amended to read as follows:

54-1220. DISCIPLINARY ACTION -- PROCEDURES. (1) Any affected party may prefer charges of fraud, deceit, gross negligence, incompetence, misconduct or violation of any provision of this chapter, or violation of any of the rules promulgated by the board against any individual licensee or certificate holder or against any business entity holding a certificate of authorization or against a person applying for a license or against a business entity applying for a certificate of authorization. Repeated acts of negligence may be considered as a gross act for disciplinary action. Such charges shall be in writing, and shall be sworn to by the person or persons making them and shall be filed with the executive director of the board. The executive director of the board shall be considered an affected party and may be the person making and filing the charges.

(2) All charges, unless dismissed by the board as unfounded or trivial de minimis, or unless settled informally, shall be heard by the board within six (6) months after the date they were received at the board office unless such time is extended by the board for justifiable cause.

(3) Administrative proceedings shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(4) If, after an administrative hearing, the board votes in favor of sustaining the charges, the board may, in its discretion, impose an administrative penalty, not to exceed five thousand dollars (\$5,000) for deposit in the general fund of the state of Idaho. In addition, the board, in its discretion, may admonish, reprimand, suspend, revoke, refuse to renew, refuse to grant, or any combination thereof, the individual's license or certificate or a business entity's certificate of authorization. The board may also, in its discretion, require the individual to practice under the supervision of another licensee, or require the individual to successfully complete continuing education courses as may be prescribed by the board.

(5) The board shall have jurisdiction over licensees whose licenses are not current provided the action relates to services performed when the license was current and valid.

SECTION 3. That Section 54-1221, Idaho Code, be, and the same is hereby amended to read as follows:

54-1221. REISSUANCE OF LICENSES AND WALL CERTIFICATES. The board may, upon petition of an individual or a business entity and following a hearing,



may reissue or reinstate a license or certificate or certificate of authorization, provided three (3) or more members of the board vote in favor of such reissuance or reinstatement. A new ~~license or wall~~ certificate ~~or certificate of authorization~~, to replace any ~~license or wall~~ certificate revoked, lost, destroyed or mutilated, may be issued upon payment of such reasonable charge therefor as shall be fixed by the board to cover the estimated cost of such reissuance, but not exceeding ten dollars (\$10.00) in any case.

SECTION 4. That Section 54-1228, Idaho Code, be, and the same is hereby amended to read as follows:

54-1228. ADMINISTERING AND CERTIFICATION OF OATHS -- AUTHORITY OF PROFESSIONAL LAND SURVEYORS. Every professional land surveyor is authorized to administer and certify oaths, when it becomes necessary to take testimony to identify or establish old or ~~lost~~ obliterated corners, or to perpetuate a corner that is in a perishable condition, or whenever the importance of the land survey makes it desirable. A record of such oaths shall be kept as part of the field notes of the land survey.

Approved April 11, 2013.

CHAPTER 340  
(H.B. No. 65)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1002, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE EDUCATIONAL SUPPORT PROGRAM, TO PROVIDE A CODE REFERENCE, TO ESTABLISH PROVISIONS RELATING TO DUAL CREDIT COURSES AND TO ESTABLISH PROVISIONS RELATING TO ADDITIONAL MATH AND SCIENCE COURSES; AMENDING SECTION 33-1004, IDAHO CODE, TO REVISE A CODE REFERENCE, TO PROVIDE THAT A SCHOOL DISTRICT MAY UTILIZE UP TO FIFTEEN PERCENT OF CERTAIN MONEYS TO PAY ANOTHER SCHOOL DISTRICT OR PUBLIC CHARTER SCHOOL FOR INSTRUCTIONAL SERVICES, TO PROVIDE THAT A DISTRICT MAY EMPLOY FEWER POSITIONS THAN FUNDED WITHOUT A REDUCTION IN THE NUMBER OF FUNDED POSITIONS BEING IMPOSED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1004A, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO THE TIME PERIOD JULY 1, 2012, THROUGH JUNE 30, 2011; AMENDING SECTION 33-1004E, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO AN ADJUSTMENT TO A DISTRICT'S SALARY-BASED APPORTIONMENT FOR FISCAL YEAR 2013; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1021, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO MATH AND SCIENCE REQUIREMENTS, TO ESTABLISH PROVISIONS RELATING TO MONEYS DISTRIBUTED TO DISTRICTS TO DEFRAY THE COST OF PROVIDING ADDITIONAL MATH AND SCIENCE COURSES AND TO ESTABLISH PROVISIONS RELATING TO THE DISTRIBUTION OF MONEYS; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1022, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO PUBLIC SCHOOL TECHNOLOGY AND TO ESTABLISH PROVISIONS RELATING TO THE EXPENDITURE AND DISTRIBUTION OF MONEYS FOR SUCH PUBLIC SCHOOL TECHNOLOGY; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1626, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO DUAL CREDIT; DECLARING AN EMERGENCY AND PROVIDING A SUNSET DATE.

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

SECTION 1. 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 as provided in section 33-1022, Idaho Code;

(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 dual credit courses as provided in section 33-1626, Idaho Code;

(m) For additional math and science courses for high school students as provided for in section 33-1021, Idaho Code;

(n) 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

(mo) 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 . . . . .	. . . . .	.. 15
	..23...grades 4,5 & 6 . . . .	
	..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 tenth.

(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 tenth 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, subsec-

tion (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 tenth, 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 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 subsection 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 five fifteen percent (15%) of the monies 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.

(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.

SECTION 3. That Section 33-1004A, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004A. EXPERIENCE AND EDUCATION MULTIPLIER. Each instructional and administrative staff position shall be assigned an appropriate multiplier based upon the following table:

## EXPERIENCE AND EDUCATION

Years	EXPERIENCE AND EDUCATION						
	BA	BA + 12	BA + 24	MA	MA + 12	MA + 24	MA + 36
0	1.00000	1.03750	1.07640	1.11680	1.15870	1.20220	1.24730
1	1.03750	1.07640	1.11680	1.15870	1.20220	1.24730	1.29410
2	1.07640	1.11680	1.15870	1.20220	1.24730	1.29410	1.34260
3	1.11680	1.15870	1.20220	1.24730	1.29410	1.34260	1.39290
4	1.15870	1.20220	1.24730	1.29410	1.34260	1.39290	1.44510
5	1.20220	1.24730	1.29410	1.34260	1.39290	1.44510	1.49930
6	1.24730	1.29410	1.34260	1.39290	1.44510	1.49930	1.55550
7	1.29410	1.34260	1.39290	1.44510	1.49930	1.55550	1.61380
8	1.34260	1.39290	1.44510	1.49930	1.55550	1.61380	1.67430
9	1.39290	1.44510	1.49930	1.55550	1.61380	1.67430	1.73710
10	1.39290	1.49930	1.55550	1.61380	1.67430	1.73710	1.80220
11	1.39290	1.49930	1.55550	1.61380	1.73710	1.80220	1.86980
12	1.39290	1.49930	1.55550	1.61380	1.73710	1.86980	1.93990
13 or more	1.39290	1.49930	1.55550	1.61380	1.73710	1.86980	2.01260

In determining the experience factor, the actual years of teaching or administrative service in a public school, in an accredited private or parochial school, or beginning in the 2005-06 school year and thereafter in an accredited college or university shall be credited, minus two (2); provided however, that the experience factor cannot be less than zero (0).

In determining the education factor, only credits earned after initial certification, based upon a transcript on file with the teacher certification office of the state department of education, earned at an institution of higher education accredited by the state board of education or a regional accrediting association, shall be allowed. Instructional staff whose initial certificate is an occupational specialist certificate shall be treated as BA degree prepared instructional staff. Credits earned by such occupational specialist instructional staff after initial certification shall be credited toward the education factor. ~~For the time period July 1, 2010, through June 30, 2011, instructional and administrative staff shall not advance on the education portion of the multiplier table.~~

In determining the statewide average multiplier for instructional staff, no multiplier in excess of 1.59092 shall be used. If the actual statewide average multiplier for instructional staff, as determined by this section, exceeds 1.59092, then each school district's instructional staff multiplier shall be multiplied by the result of 1.59092 divided by the actual statewide average multiplier for instructional staff.

In determining the statewide average multiplier for administrative staff, no multiplier in excess of 1.86643 shall be used. If the actual statewide average multiplier for administrative staff, as determined by this section, exceeds 1.86643, then each school district's administrative staff multiplier shall be multiplied by the result of 1.86643 divided by the actual statewide average multiplier for administrative staff.

SECTION 4. That Section 33-1004E, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004E. DISTRICT'S SALARY-BASED APPORTIONMENT. Each district shall be entitled to a salary-based apportionment calculated as provided in this section.

1. To determine the apportionment for instructional staff, first determine the district average experience and education index by placing all eligible district certificated instructional employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the 1994-95 school year, and shall receive their actual index but not more than the state average plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district instructional staff index shall be multiplied by the instructional base salary of \$23,123. The amount so determined shall be multiplied by the district staff allowance for instructional staff determined as provided in section 33-1004(2), Idaho Code. The instructional salary allocation shall be further increased by the amount necessary for each full-time equivalent instructional staff member placed on the experience and education index to be allocated at least the minimum salary mandated by this section. Full-time instructional staff salaries shall be determined from a salary schedule developed by each district and submitted to the state department of education. No full-time instructional staff member shall be paid less than \$30,500. If an instructional staff member has been certified by the national board for professional teaching standards, the staff member shall be designated as a master teacher and receive \$2,000 per year for five (5) years. The instructional salary shall be increased by \$2,000 for each master teacher provided however, that no such awards shall be paid for the period July 1, 2010, through June 30, 2011, nor shall any liabilities accrue or payments be made pursuant to this section in the future to any individuals who would have otherwise qualified for a payment during this stated time period. The resulting amount is the district's salary-based apportionment for instructional staff. For purposes of this section, teachers qualifying for the salary increase as master teacher shall be those who have been recognized as national board certified teachers as of July 1 of each year.

2. To determine the apportionment for district administrative staff, first determine the district average experience and education index by placing all eligible certificated administrative employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the school year 1994-95, and shall receive their actual index but not more than the state average index plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district administrative staff index shall be multiplied by the base salary of \$31,833. The amount so determined shall be multiplied by the district staff allowance for administrative staff determined as provided in section 33-1004(3), Idaho Code. The resulting amount is the district's salary-based apportionment for administrative staff.

3. To determine the apportionment for classified staff, multiply \$19,058 by the district classified staff allowance determined as provided in section 33-1004(4), Idaho Code. The amount so determined is the district's apportionment for classified staff.

4. The district's salary-based apportionment shall be the sum of the apportionments calculated in subsections 1., 2. and 3., of this section, adjusted by the following percentage:



<u>Fiscal Year</u>	<u>Percentage</u>
<u>2013</u>	<u>(1.67%)</u>

plus the benefit apportionment as provided in section 33-1004F, Idaho Code.

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 33-1021, Idaho Code, and to read as follows:

33-1021. **MATH AND SCIENCE REQUIREMENT.** In order to meet state graduation requirements regarding math and science courses, moneys shall be distributed to school districts to defray the cost of providing additional math and science courses beginning in fiscal year 2012. Moneys so distributed shall be used to hire additional high school math and science teachers or to defray costs associated with providing math and science courses to high school students. Moneys shall be distributed to school districts from the moneys appropriated to the educational support program for each regular high school, not including alternative schools, based on the following criteria:

- (1) For each school with enrollment of 99 or less, distribute the equivalent of one and one-quarter (1.25) of a classified staff position.
- (2) For each school with enrollment of 100 to 159, distribute the equivalent of one-ninth (1/9) of a classified staff position.
- (3) For each school with enrollment of 160 to 319, distribute the equivalent of two-sevenths (2/7) of a classified staff position.
- (4) For each school with enrollment of 320 to 639, distribute the equivalent of one (1.0) instructional staff position, based on the statewide average funding per position.
- (5) For each school with enrollment of 640 or more, distribute the equivalent of one (1.0) instructional staff position, based on the statewide average funding per position, and three-quarters (0.75) of a classified staff position.

For the purposes of these school size classifications for regular high schools that serve only grades 10-12, ninth grade students who will attend the regular high school upon matriculating to tenth grade shall be included as enrolled in the regular high school.

SECTION 6. 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 33-1022, Idaho Code, and to read as follows:

33-1022. **PUBLIC SCHOOL TECHNOLOGY.** (1) Moneys shall be expended or distributed from the educational support program for public school technology as follows:

- (a) For fiscal year 2013, an amount equal to two hundred twenty-seven (227) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds. Of this amount, the following percentages shall be utilized pursuant to the following paragraphs of subsection (3) of this section:

Subsection (3)	Percentage
Paragraphs (a) and (c)	46%
Paragraph (b)	54%

- (b) The dollars allocated for paragraphs (a) through (c) of subsection (3) of this section may be reallocated among said subsections by the superintendent of public instruction, subject to a ten percent (10%) maximum cumulative change in the allocated amounts.

(2) For the purposes of subsection (1) of this section, the support unit figure used shall be statewide support units used to calculate the distribution of salary-based apportionment funds in the current fiscal year.

(3) Moneys expended or distributed pursuant to this section shall be utilized for one (1) or more of the following:

(a) Moneys shall be expended for the installation, repair, replacement and support of a wireless technology infrastructure, in each public school serving high school grades, of sufficient capacity to support utilization of mobile computing devices by all students in such grades.

(b) Moneys shall be expended or distributed for classroom technology that assists teachers in the effective and efficient delivery of instruction. At least ninety-seven percent (97%) of the moneys expended or distributed for this paragraph shall be distributed to school districts, public charter schools and the Idaho school for the deaf and blind, less up to five hundred thousand dollars (\$500,000) in fiscal year 2013, which may be expended for the development and maintenance of an internet-based clearinghouse of online, nonsectarian K-12 or dual credit courses available from any of the following:

(i) Idaho digital learning academy;

(ii) Idaho public school districts;

(iii) Idaho public charter schools;

(iv) Idaho public colleges and universities; and

(v) Idaho private colleges and universities accredited by the same organization that accredits Idaho's public colleges and universities.

(c) Moneys shall be expended or distributed for professional development and training that promotes the effective use of technology by students, staff and parents, the integration of technology into public school curricula and instructional methods, and the development of plans at the school, district and statewide level for the improved use and integration of technology in learning, and the development and effective utilization of student data.

SECTION 7. 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 33-1626, Idaho Code, and to read as follows:

33-1626. DUAL CREDIT FOR EARLY COMPLETERS. Students completing all state high school graduation requirements at any time prior to the beginning of their final twelfth grade semester or trimester term, except the senior project and any other course that the state board of education requires to be completed during the final year of high school, beginning with the 2011-2012 school year, shall be eligible for up to eighteen (18) credits per semester term or twelve (12) credits per trimester term of postsecondary credits of dual credit courses. Average daily attendance shall be counted as normal for such students for public school funding purposes. In addition, the state department of education shall distribute funds from the moneys appropriated for the educational support program to defray the per credit cost charged for such dual credit courses by accredited postsecondary institutions. The amount so distributed shall not exceed seventy-five dollars (\$75.00) per credit hour.

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. The provisions of this act shall be null, void and of no force and effect after June 30, 2013.

## CHAPTER 341

(H.B. No. 120, As Amended, As Amended in the Senate)

## AN ACT

RELATING TO THE IDAHO STATE LOTTERY; AMENDING SECTION 67-7408, IDAHO CODE, TO REVISE THE POWERS AND DUTIES OF THE IDAHO STATE LOTTERY COMMISSION RELATING TO THE METHODS TO BE UTILIZED IN SELLING LOTTERY TICKETS AND SHARES.

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

SECTION 1. That Section 67-7408, Idaho Code, be, and the same is hereby amended to read as follows:

67-7408. POWERS AND DUTIES OF THE COMMISSION. The commission shall be responsible for establishing the goals and objectives of the lottery and shall have the following duties, powers and responsibilities in addition to others herein granted:

(1) The commission shall adopt, upon recommendation of the director, such rules and regulations governing the establishment and operation of the lottery as it considers necessary under this chapter to ensure the integrity of the lottery and its games and to maximize the net income of the lottery for the benefit of the state. Such rules and regulations shall generally address, but not be limited to:

(a) The different types of lottery games to be conducted;

(b) The range of prize structures of each lottery game;

(c) The method, odds and frequency of selecting winning tickets and shares and the manner of paying prizes to the owners of the winning tickets and shares;

(d) The terms and conditions of lottery game retailer contracts which may include retailer compensation, bonuses, incentives, fees for redeeming claims, payment and credit terms, retailer application and renewal fees, telecommunication costs, if any, to be paid or allocated to retailers and bonding requirements;

(e) The methods to be utilized in selling and distributing lottery tickets or shares, including the use of machines, terminals, telecommunications systems and data processing systems. Customer operated machines, terminals or other devices for selling lottery tickets or shares shall only be operated by the use of currency or coin; and

(f) Other matters necessary or appropriate for the efficient operation and administration of the lottery, for the convenience of the public, and to carry out the provisions of this chapter. Every rule promulgated within the authority conferred by this chapter shall be of temporary effect and must be ratified by the legislature at the regular session first following their adoption. Rules not approved in the above manner shall be rejected, null, void and of no force and effect on July 1, following their submission to the legislature.

(2) The commission shall approve major procurements.

(3) The commission shall approve the transfer of net income in accordance with the provisions of this chapter.

(4) The commission shall have the authority to enter into written agreements or contracts, negotiated and prepared by the director, with any other state or states, the government of Canada, the provinces of Canada or an agency or contractor of any of those entities for the operation and promotion of a joint lottery or joint lottery games.

(5) The commission shall perform all other acts necessary to carry out the purposes and provisions of this chapter.

Approved April 11, 2013.

## CHAPTER 342

(H.B. No. 206, As Amended in the Senate, As Amended in the Senate)

## AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-1002, IDAHO CODE, TO REVISE PROVISIONS RELATING TO STATE SUPPORT OF SPECIAL PROGRAMS; AMENDING SECTION 33-5208, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE, TO ESTABLISH PROVISIONS RELATING TO THE DISTRIBUTION OF FACILITIES FUNDS TO PUBLIC CHARTER SCHOOLS, TO PROVIDE FOR THE USE OF FUNDS, TO PROVIDE FOR A CALCULATION, TO PROVIDE FOR A REIMBURSEMENT CLAIM, TO DEFINE A TERM AND TO ESTABLISH PROVISIONS RELATING TO AN AUTHORIZER FEE; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5214, IDAHO CODE, TO ESTABLISH THE PUBLIC CHARTER SCHOOL AUTHORIZERS FUND, TO PROVIDE FOR THE DEPOSIT OF CERTAIN MONEYS AND TO PROVIDE FOR THE USE OF SUCH MONEYS; AND AMENDING SECTION 33-1619, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES.

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

SECTION 1. 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;

(m) 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

(mn) 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 . . . . .	. . . . .	.. 15
	..23...grades 4,5 & 6 . . . .	
	..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 tenth.

(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 tenth 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 tenth, 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 2. That Section 33-5208, Idaho Code, be, and the same is hereby amended to read as follows:

33-5208. PUBLIC CHARTER SCHOOL FINANCIAL SUPPORT. Except as provided in subsection (§10) of this section, from the state educational support program the state department of education shall make the following apportionment to each public charter school for each fiscal year based on attendance figures submitted in a manner and time as required by the department of education:

(1) Per student support. Computation of support units for each public charter school shall be calculated as if it were a separate school according to the schedules in section 33-1002(4), Idaho Code, except that public charter schools with fewer than one hundred (100) secondary ADA shall use a

divisor of twelve (12) and the minimum units shall not apply, and no public charter school shall receive an increase in support units that exceeds the support units it received in the prior year by more than thirty (30). Funding from the state educational support program shall be equal to the total distribution factor, plus the salary-based apportionment provided in chapter 10, title 33, Idaho Code. Provided however, any public charter school that is formed by the conversion of an existing traditional public school shall be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no lower than the divisors of the school district in which the traditional public school is located, for each category of pupils listed.

(2) Special education. For each student enrolled in the public charter school who is entitled to special education services, the state and federal funds from the exceptional child education program for that student that would have been apportioned for that student to the school district in which the public charter school is located.

(3) Alternative school support. Public charter schools may qualify under the provisions of sections 33-1002 and 33-1002C, Idaho Code, provided the public charter school meets the necessary statutory requirements, and students qualify for attendance at an alternative school as provided by rule of the state board of education.

(4) Transportation support. Support shall be paid to the public charter school as provided in chapter 15, title 33, Idaho Code, and section 33-1006, Idaho Code. Each public charter school shall furnish the department with an enrollment count as of the first Friday in November, of public charter school students who are eligible for reimbursement of transportation costs under the provisions of this subsection and who reside more than one and one-half (1 1/2) miles from the school. The state department of education is authorized to include in the annual appropriation to the charter school sixty percent (60%) of the estimated transportation cost. The final appropriation payment in July shall reflect reimbursements of actual costs pursuant to section 33-1006, Idaho Code. To be eligible for state reimbursement under the provisions of section 33-1006, Idaho Code, the student to be transported must reside within the public charter school's primary attendance area, and must meet at least one (1) of the following two (2) criteria:

- (a) The student resides within the school district in which the public charter school is physically located; or
- (b) The student resides within fifteen (15) miles of the public charter school, by road.

The limitations placed by this subsection on the reimbursement of transportation costs for certain students shall not apply to public virtual schools.

(5) Facilities funds. The state department of education shall distribute facilities funds to public charter schools for each enrolled student in which a majority of the student's instruction is received at a facility that is owned or leased by the public charter school. Such funds shall be used to defray the purchase, fee, loan or lease costs associated with payments for real property used by the students or employees of the public charter school for educational or administrative purposes. Such funds shall be distributed from the moneys appropriated to the educational support program, and shall be calculated as a percentage of the statewide average amount of bond and plant facility funds levied per student by Idaho school districts, as follows:

<u>Fiscal Year 2014</u>	<u>Twenty Percent (20%)</u>
<u>Fiscal Year 2015</u>	<u>Thirty Percent (30%)</u>

For fiscal year 2016 and each fiscal year thereafter, this percentage shall increase by ten percent (10%) each time the total appropriation of



state funds for the educational support program increases by three percent (3%) or more over the prior fiscal year, and shall decrease by ten percent (10%) each time the total appropriation of state funds for the educational support program decreases as compared to the prior fiscal year. Provided however, that the percentage shall be no less than twenty percent (20%) and no greater than fifty percent (50%), and that the average amount of funding received per public charter school shall not exceed the average amount of funding received by each school district pursuant to the provisions of section 33-906, Idaho Code.

For those public charter schools that do not receive facilities funds for all enrolled students, the school may submit to the state department of education a reimbursement claim for any costs for which facilities funds may be used. The state department of education shall reduce such claim by the greater of fifty percent (50%) or the percentage of the school's enrolled students for which the school receives facilities funds, and shall pay the balance. Provided however, that the total reimbursements paid to a public charter school, in combination with any facilities stipend received by the school, shall not exceed the amount of facilities funds that would have been received by the school had the school received facilities funds for all enrolled students. For the purposes of this subsection, the term "real property" shall be used as defined in section 63-201, Idaho Code.

(6) Payment schedule. The state department of education is authorized to make an advance payment of twenty-five percent (25%) of a public charter school's estimated annual apportionment for its first year of operation, and each year thereafter, provided the public charter school has an increase of student population in any given year of twenty (20) students or more, to assist the school with initial start-up costs or payroll obligations.

(a) For a public charter school to receive the advance payment, the school shall submit its anticipated fall membership for each grade level to the state department of education by June 1.

(b) Using the figures provided by the public charter school, the state department of education shall determine an estimated annual apportionment from which the amount of the advance payment shall be calculated. Advance payment shall be made to the school on or after July 1 but no later than July 31.

(c) All subsequent payments, taking into account the one-time advance payment made for the first year of operation, shall be made to the public charter school in the same manner as other traditional public schools in accordance with the provisions of section 33-1009, Idaho Code.

A public charter school shall comply with all applicable fiscal requirements of law, except that the following provisions shall not be applicable to public charter schools: that portion of section 33-1004, Idaho Code, relating to reduction of the administrative and instructional staff allowance when there is a discrepancy between the number allowed and the number actually employed; and section 33-1004E, Idaho Code, for calculation of district staff indices.

(67) Nothing in this chapter shall be construed to prohibit any private person or organization from providing funding or other financial assistance to the establishment or operation of a public charter school.

(8) Each public charter school shall pay an authorizer fee to its authorized chartering entity, to defray the actual documented cost of monitoring, evaluation and oversight, which, in the case of public charter schools authorized by the public charter school commission, shall include each school's proportional fee share of all moneys appropriated to the public charter school commission, plus fifteen percent (15%). Provided however, that each public charter school's board of directors may direct up to ten percent (10%) of the calculated fee to pay membership fees to an organization or association that provides technical assistance, training and advocacy for Idaho public charter schools. Unless the authorized chartering entity

declines payment, such fee shall be paid by February 15 of each fiscal year and shall not exceed the greater of:

(a) All state funds distributed to public schools on a support unit basis for the prior fiscal year, divided by the statewide number of public school students in average daily attendance in the first reporting period in the prior fiscal year; or

(b) The lesser of:

(i) The result of the calculation in subsection (8) (a) of this section, multiplied by four (4); or

(ii) One and one-half percent (1.5%) of the result of the calculation in subsection (8) (a) of this section, multiplied by the public charter school's average daily attendance in the first reporting period in the current fiscal year.

(79) Nothing in this chapter shall prevent a public charter school from applying for federal grant moneys.

(810) (a) Each student in attendance at a public virtual school shall be funded based upon either the actual hours of attendance in the public virtual school on a flexible schedule, or the percentage of coursework completed, whichever is more advantageous to the school, up to the maximum of one (1) full-time equivalent student.

(b) All federal educational funds shall be administered and distributed to public charter schools, including public virtual schools, that have been designated by the state board of education as a local education agency (LEA), as provided in section 33-5203(7), Idaho Code.

(911) Nothing in this section prohibits separate face-to-face learning activities or services.

(102) The provisions of section 33-1021, Idaho Code, shall apply to public charter schools provided for in this chapter.

SECTION 3. That Chapter 52, 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 33-5214, Idaho Code, and to read as follows:

33-5214. PUBLIC CHARTER SCHOOL AUTHORIZERS FUND. There is hereby created in the state treasury a fund to be known as the "Public Charter School Authorizers Fund," hereinafter referred to as "the fund." All authorizer fees paid pursuant to section 33-5208(8), Idaho Code, for public charter schools under the governance of the public charter school commission shall be deposited in the fund. Moneys in the fund shall be appropriated to defray the commission's cost of operations and the state department of education's cost of reviewing, approving and overseeing any charter school authorizers requiring department approval.

SECTION 4. That Section 33-1619, Idaho Code, be, and the same is hereby amended to read as follows:

33-1619. VIRTUAL EDUCATION PROGRAMS. School districts may offer instruction in the manner described for a virtual school in section 33-5202A, Idaho Code. For programs meeting such definition, the school district may count and report the average daily attendance of the program's students in the manner prescribed in section 33-5208(810), Idaho Code. School districts may also offer instruction that is a blend of virtual and traditional instruction. For such blended programs, the school district may count and report the average daily attendance of the program's students in the manner prescribed in section 33-5208(810), Idaho Code. Alternatively, the school district may count and report the average daily attendance of the blended program's students in the same manner as provided for traditional programs of instruction, for the days or portions of days in which such students attend a physical public school. For the balance of days or portions of days,

average daily attendance may be counted in the manner prescribed in section 33-5208(810), Idaho Code.

Approved April 11, 2013.

#### CHAPTER 343

(H.B. No. 221, As Amended in the Senate)

#### AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1009, IDAHO CODE, TO PROVIDE FOR AN EXCEPTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-5202A, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 33-5203, IDAHO CODE, TO REVISE PROVISIONS RELATING TO LIMITATIONS ON THE APPROVAL OF A PUBLIC CHARTER SCHOOL BY A BOARD OF TRUSTEES, TO REVISE PROVISIONS RELATING TO A PUBLIC VIRTUAL SCHOOL CHARTER, TO REVISE PROVISIONS RELATING TO THE DESIGNATION OF A PUBLIC CHARTER SCHOOL AS A LOCAL EDUCATION AGENCY; AMENDING SECTION 33-5205, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A PETITION TO ESTABLISH A PUBLIC CHARTER SCHOOL AND A NEW PUBLIC VIRTUAL SCHOOL, TO REMOVE LANGUAGE RELATING TO THE PUBLIC CHARTER SCHOOL COMMISSION, TO REVISE PROVISIONS RELATING TO A PUBLIC HEARING, TO REVISE PROVISIONS RELATING TO A DECISION ON A PETITION, TO REVISE PROVISIONS RELATING TO CERTAIN ADDITIONAL STATEMENTS, TO ESTABLISH PROVISIONS RELATING TO AN INITIAL CHARTER AND TERM OF OPERATIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-5205A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE TRANSFER OF A CHARTER, TO REMOVE LANGUAGE RELATING TO THE PUBLIC CHARTER SCHOOL COMMISSION AND TO ESTABLISH LANGUAGE RELATING TO AUTHORIZED CHARTERING ENTITIES; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5205B, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO PERFORMANCE CERTIFICATES, TO ESTABLISH PROVISIONS RELATING TO PERFORMANCE EXPECTATIONS AND MEASURES, TO ESTABLISH PROVISIONS RELATING TO THE EXECUTION OF SUCH CERTIFICATES AND TO PROVIDE THAT CERTAIN PUBLIC CHARTER SCHOOLS SHALL EXECUTE CERTIFICATES NO LATER THAN A CERTAIN DATE; AMENDING SECTION 33-5206, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO CERTAIN REQUIREMENTS, TO REVISE PROVISIONS RELATING TO THE SUBMISSION OF AN AUDIT, TO REVISE PROVISIONS RELATING TO THE REVISION OF A CHARTER OR CERTIFICATE AND TO REVISE PROVISIONS RELATING TO A NONRENEWED CHARTER; AMENDING SECTION 33-5207, IDAHO CODE, TO REVISE PROVISIONS RELATING TO RECONSIDERATION OF A DECISION TO DENY A PETITION; AMENDING SECTION 33-5208, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A PAYMENT SCHEDULE AND TO REMOVE A REFERENCE TO THE STATE BOARD; REPEALING SECTION 33-5209, IDAHO CODE, RELATING TO ENFORCEMENT, REVOCATION AND APPEAL; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5209A, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO ACCOUNTABILITY OF EACH PUBLIC CHARTER SCHOOL AND CERTAIN PERFORMANCE INDICATORS; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5209B, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO CHARTER RENEWALS, RENEWAL APPLICATIONS, CHARTER RENEWAL DECISIONS, REVOCATION AND NONRENEWAL PROCESSES AND ESTABLISHING PROVISIONS RELATING TO AN AUTHORIZED CHARTERING ENTITY RENEWING OR NONRENEWING ANY CHARTER; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5209C, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO AN AUTHORIZED CHARTERING ENTITY MONITORING PERFORMANCE, TO ESTABLISH PROVISIONS RELATING TO A PERFORMANCE REPORT, TO ESTABLISH PROVISIONS RELATING TO CERTAIN FISCAL SOUNDNESS, TO ESTABLISH PROVISIONS RELATING TO NOTIFICATION REGARDING VIOLATION OF LAW, TO ESTABLISH PROVISIONS RELATING TO REVOCATION OR NONRENEWAL OF

A CHARTER, TO PROVIDE FOR A REPORT, TO ESTABLISH PROVISIONS RELATING TO A PUBLIC HEARING AND TO PROVIDE FOR AN APPEAL; AMENDING SECTION 33-5211, IDAHO CODE, TO REMOVE A REFERENCE TO A PETITION, TO PROVIDE A REFERENCE TO A CHARTER AND PERFORMANCE CERTIFICATE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5212, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO PUBLIC CHARTER SCHOOL CLOSURE DECISIONS AND THE DISTRIBUTION OF ASSETS; AMENDING SECTION 33-5213, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE MEMBERSHIP AND TERMS OF THE PUBLIC CHARTER SCHOOL COMMISSION AND TO REVISE PROVISIONS RELATING TO THE REQUIREMENTS OF MEMBERSHIP; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 33-1009, Idaho Code, be, and the same is hereby amended to read as follows:

33-1009. PAYMENTS FROM THE PUBLIC SCHOOL INCOME FUND.

1. a. Payments of the state general account appropriation for public school support shall be made each year by the state board of education to the public school districts of the state in five (5) payments. Payments to the districts shall be made not later than the fifteenth day of August, the first day of October, the fifteenth day of November, the fifteenth day of February, and the fifteenth day of May each year. The first two (2) payments by the state board of education shall be approximately thirty percent (30%) of the total general account appropriation for the fiscal year, while the third, fourth and fifth payments shall be approximately twenty percent (20%), ten percent (10%) and ten percent (10%), respectively, except as provided for in section 33-5209C, Idaho Code. Amounts apportioned due to a special transfer to the public school income fund to restore or reduce a deficiency in the prior year's transfer pursuant to subsection 4. of this section shall not be subject to this limitation.

b. Payments of moneys, other than the state general account appropriation, that accrue to the public school income fund shall be made by the state board of education to the school districts of the state on the fifteenth day of November, February, May and July each year. The total amount of such payments shall be determined by the state department of education and shall not exceed the amount of moneys available and on deposit in the public school income fund at the time such payment is made.

c. Amounts apportioned due to a special transfer to the public school income fund to restore or reduce a deficiency in the prior year's transfer pursuant to subsection 4. of this section shall not be subject to the limitation imposed by paragraphs a. and b. of this subsection.

2. Payments made to the school districts in August, October and November are advance payments for the current year and may be based upon payments from the public school income fund for the preceding school year. Each school district may receive its proportionate share of the advance payments in the same ratio that its total payment for the preceding year was to the total payments to all school districts for the preceding year.

3. No later than the fifteenth day of February in each year, the state department of education shall compute the state distribution factor based on the total average daily attendance through the first Friday in November. The factor will be used in payments of state funds in February and May. Attendance shall be reported in a format and at a time specified by the state department of education.

As of the thirtieth day of June of each year the state department of education shall determine final payments to be made on July fifteenth next suc-

ceeding to the several school districts from the public school income fund for the school year ended June 30. The July payments shall take into consideration:

- a. ~~€~~The average daily attendance of the several school districts for the twenty-eight (28) best weeks of the school year completed not later than the thirtieth of June~~;~~<sub>i</sub>
- b. ~~a~~All funds available in the public school income fund for the fiscal year ending on the thirtieth of June~~;~~<sub>i</sub>
- c. ~~a~~All payments distributed for the current fiscal year to the several school districts~~;~~<sub>i</sub>
- d. ~~€~~The adjustment based on the actual amount of discretionary funds per support unit required by the provisions of section 33-1018, Idaho Code~~;~~<sub>i</sub>
- e. ~~p~~Payments made or due for the transportation support program and the exceptional education support program. The state department of education shall apportion and direct the payment to the several school districts the moneys in the public school income fund in each year, taking into account the advance made under subsection 2. of this section, in such amounts as will provide in full for each district its support program, and not more than therefor required, and no school district shall receive less than fifty dollars (\$50.00).

4. If the full amount appropriated to the public school income fund from the general account by the legislature is not transferred to the public school income fund by the end of the fiscal year, the deficiency resulting therefrom shall either be restored or reduced through a special transfer from the general account in the first sixty (60) days of the following fiscal year, or shall be calculated in computing district levies, and any additional levy shall be certified by the state superintendent of public instruction to the board of county commissioners and added to the district's maintenance and operation levy. If the deficiency is restored or reduced by special transfer, the amount so transferred shall be in addition to the amount appropriated to be transferred in such following fiscal year and shall be apportioned to each school district in the same amount as each would have received had the transfer been made in the year the deficiency occurred. The state department of education shall distribute to the school district the full amount of the special transfer as soon as practical after such transfer is made. In making the levy computations required by this subsection the state department of education shall take into account and consider the full amount of money receipted into the public school income fund from all sources for the given fiscal year. Deficits in the transfer of the appropriated amount of general account revenue to the public school income fund shall be reduced by the amount, if any, that the total amount receipted from other sources into the public school income fund exceeds the official estimated amount from those sources. The official estimate of receipts from other sources shall be the total amount stated by the legislature in the appropriation bill. The provisions of this subsection shall not apply to any transfers to or from the public education stabilization fund.

5. Any apportionments in any year, made to any school district, which may within the succeeding three (3) year period be found to have been in error either of computation or transmittal, may be corrected during the three (3) year period by reduction of apportionments to any school district to which over-apportionments may have been made or received, and corresponding additions to apportionments to any school district to which under-apportionments may have been made or received.

SECTION 2. That Section 33-5202A, Idaho Code, be, and the same is hereby amended to read as follows:

33-5202A. DEFINITIONS. As used in this chapter, unless the context requires otherwise:

(1) "Authorized chartering entity" means either any of the following:

(a) A local board of trustees of a school district in this state, ~~or~~;

(b) The public charter school commission created pursuant to the provisions of this chapter;

(c) An Idaho public college, university or community college;

(d) A private, nonprofit Idaho-based, nonsectarian college or university that is accredited by the same organization that accredits Idaho public colleges and universities.

(2) "Charter" means the grant of authority approved by the authorized chartering entity to the board of directors of the public charter school.

(3) "Founder" means a person, including employees or staff of a public charter school, who makes a material contribution toward the establishment of a public charter school in accordance with criteria determined by the board of directors of the public charter school, and who is designated as such at the time the board of directors acknowledges and accepts such contribution. The criteria for determining when a person is a founder shall not discriminate against any person on any basis prohibited by the federal or state constitutions or any federal, state or local law. The designation of a person as a founder, and the admission preferences available to the children of a founder, shall not constitute pecuniary benefits.

(4) "Performance certificate" means a fixed-term, renewable certificate between a public charter school and an authorized chartering entity that outlines the roles, powers, responsibilities and performance expectations for each party to the certificate.

(5) "Petition" means the document submitted by a person or persons to the authorized chartering entity to request the creation of a public charter school.

(56) "Professional-technical regional public charter school" means a public charter secondary school authorized under this chapter to provide programs in professional-technical education which meet the standards and qualifications established by the division of professional-technical education. A professional-technical regional public charter school may be approved by an authorized chartering entity and, by the terms of its charter, shall operate in association with at least two (2) school districts. Notwithstanding the provisions of section 33-5205(3)(j), Idaho Code, participating school districts need not be contiguous.

(67) "Public charter school" means a school that is authorized under this chapter to deliver public education in Idaho.

(78) "Traditional public school" means any school existing or to be built that is operated and controlled by a school district in this state.

(89) "Virtual school" means a school that delivers a full-time, sequential program of synchronous and/or asynchronous instruction primarily through the use of technology via the internet in a distributed environment. Schools classified as virtual must have an online component to their school with online lessons and tools for student and data management.

SECTION 3. That Section 33-5203, Idaho Code, be, and the same is hereby amended to read as follows:

33-5203. AUTHORIZATION -- LIMITATIONS. (1) The creation of public charter schools is hereby authorized. Public charter schools shall be part of the state's program of public education.

(2) New public charter schools which may begin educational instruction in any one (1) school year shall be subject to the following:

(a) No whole school district may be converted to a charter district or any configuration which includes all schools as public charter schools; and

(b) A petition must be received by the initial authorized chartering entity no later than September 1 to be eligible to begin instruction the first complete school year following receipt of the petition; and

(c) To begin operations, a newly chartered public school must be authorized by no later than January 1 of the previous school year.

(3) A public charter school may be formed either by creating a new public charter school, which charter may be approved by any authorized chartering entity, or by converting an existing traditional public school to a public charter school, which charter may only be approved by the board of trustees of the school district in which the existing public school is located.

(4) No charter shall be approved under this chapter:

(a) Which provides for the conversion of any existing private or parochial school to a public charter school.

(b) To a for-profit entity or any school which is operated by a for-profit entity, provided however, nothing herein shall prevent the board of directors of a public charter school from legally contracting with for-profit entities for the provision of products or services that aid in the operation of the school.

(c) By the board of trustees of a school district if the public charter school's physical location is outside the boundaries of the authorizing school district. ~~The limitation provided in this subsection (4) (c) does not apply to a home-based public virtual school.~~

(5) ~~A public virtual school charter may be approved by the public charter school commission~~ any authorized chartering entity except a local school district board of trustees. In addition, a charter may also be approved by the state board of education pursuant to section 33-5207(5) (b) , Idaho Code.

(6) The state board of education shall adopt rules, subject to law, to establish a consistent application and review process for the approval and maintenance of all public charter schools.

~~(7) The state board of education shall be responsible to designate those public charter schools that will be identified~~ Each public charter school authorized by an authorized chartering entity other than a local school district board of trustees is hereby designated as a local education agency (LEA) as such term is defined in 34 CFR 300.287. however, only public charter schools chartered by the board of trustees of a school district may also be designated by the board of trustees as an LEA, with the concurrence of the public charter school board of directors. Otherwise, the public charter school shall be included in that district's LEA.

SECTION 4. That Section 33-5205, Idaho Code, be, and the same is hereby amended to read as follows:

33-5205. PETITION TO ESTABLISH PUBLIC CHARTER SCHOOL. (1) Any group of persons may petition to establish a new public charter school, or to convert an existing traditional public school to a public charter school. The purpose of the charter petition is to present the proposed public charter school's academic and operational vision and plans, demonstrate the petitioner's capacities to execute the proposed vision and plans and provide the authorized chartering entity a clear basis for assessing the applicant's plans and capacities. An approved charter petition shall not serve as the school's performance certificate.

(a) A petition to establish a new public charter school, including a public virtual charter school, shall be signed by not fewer than thirty (30) qualified electors of the attendance area designated in the petition, unless it is a petition for approval by an authorized chartering entity permitted pursuant to subsection (1) (c) or (1) (d) of section 33-5202A, Idaho Code. Proof of elector qualifications shall be provided with the petition. A petition to establish a new public char-

ter school may be submitted directly to an authorized chartering entity permitted pursuant to subsection (1) (c) or (1) (d) of section 33-5202A, Idaho Code; provided however, that no such individual authorized chartering entity shall approve more than one (1) new public charter school each year within the boundaries of a single school district. Except as provided in this paragraph, authorized chartering entities permitted pursuant to the provisions of subsection (1) (c) or (1) (d) of section 33-5202A, Idaho Code, shall be governed by the same laws and rules in approving new public charter schools as the public charter school commission.

(b) A petition to establish a new public virtual school ~~must shall not~~ be submitted directly to the ~~public charter school commission~~ a local school district board of trustees. Except as provided in paragraph (a) of this subsection, a petition to establish a new public charter school, other than a new public virtual school, shall first be submitted to the local board of trustees in which the public charter school will be located. A petition shall be considered to be received by an authorized chartering entity as of the next regularly scheduled meeting of the authorized chartering entity after submission of the petition.

(c) The board of trustees may either: (i) consider the petition and approve the charter; or (ii) consider the petition and deny the charter; or (iii) refer the petition to the public charter school commission, but such referral shall not be made until the local board has documented its due diligence in considering the petition. Such documentation shall be submitted with the petition to the public charter school commission. If the petitioners and the local board of trustees have not reached mutual agreement on the provisions of the charter, after a reasonable and good faith effort, within seventy-five (75) days from the date the charter petition is received, the petitioners may withdraw their petition from the local board of trustees and may submit their charter petition to the public charter school commission. Documentation of the reasonable and good faith effort between the petitioners and the local board of trustees must be submitted with the petition to the public charter school commission.

~~(d) The public charter school commission may either: (i) consider the petition and approve the charter; or (ii) consider the petition and deny the charter.~~

~~(e)~~ A petition to convert an existing traditional public school shall be submitted to the board of trustees of the district in which the school is located for review and approval. The petition shall be signed by not fewer than sixty percent (60%) of the teachers currently employed by the school district at the school to be converted, and by one (1) or more parents or guardians of not fewer than sixty percent (60%) of the students currently attending the school to be converted. Each petition submitted to convert an existing school or to establish a new charter school shall contain a copy of the articles of incorporation and the bylaws of the nonprofit corporation, which shall be deemed incorporated into the petition.

(2) Not later than seventy-five (75) days after receiving a petition, the authorized chartering entity shall hold a public hearing for the purpose of discussing the provisions of the charter, at which time the authorized chartering entity shall consider the merits of the petition and the level of employee and parental support for the petition. In the case of a petition submitted to the public charter school commission, such public hearing must be not later than seventy-five (75) days after receipt of the petition, which may be extended for an additional specified period of time if both parties agree to an extension. Such agreement shall be established in writing and signed by representatives of both parties.



In the case of a petition for a public virtual charter school, if the primary attendance area described in the petition of a proposed public virtual charter school extends within the boundaries of five (5) or fewer local school districts, the ~~public charter school commission~~ prospective authorizer shall provide notice in writing of the public hearing no less than thirty (30) days prior to such public hearing to those local school districts. Such public hearing shall include any oral or written comments that an authorized representative of the local school districts may provide regarding the merits of the petition and any potential impacts on the school districts.

In the case of a petition for a non-virtual public charter school submitted to the public charter school commission, the board of the district in which the proposed public charter school will be physically located, shall be notified of the hearing in writing, by the public charter school commission, no less than thirty (30) days prior to the public hearing. Such public hearing shall include any oral or written comments that an authorized representative of the school district in which the proposed public charter school would be physically located may provide regarding the merits of the petition and any potential impacts on the school district. The hearing shall include any oral or written comments that petitioners may provide regarding any potential impacts on such school district. If the school district chooses not to provide any oral or written comments as provided for in this subsection ~~(2)~~, such school district shall notify the public charter school commission of such decision. This public hearing shall be an opportunity for public participation and oral presentation by the public. This hearing is not a contested case hearing as described in chapter 52, title 67, Idaho Code. Following review of any petition and any public hearing provided for in this section, the authorized chartering entity shall within seventy-five (75) days either approve or deny the charter within seventy-five (75) days after the date of the public hearing, provided however, that the date may be extended by an additional specified period of time if the petition fails to contain all of the information required in this section, or if both parties agree to the extension. Such agreement shall be established in writing and signed by representatives of both parties. This public hearing shall be an opportunity for public participation and oral presentation by the public. This hearing is not a contested case hearing as described in chapter 52, title 67, Idaho Code:

(a) Approve the charter;

(b) Deny the charter; or

(c) Provide a written response identifying the specific deficiencies in the petition.

If the authorized chartering entity exercises the option provided for in paragraph (c) of this subsection, then the petitioners may revise the petition and resubmit such within thirty (30) days. Within forty-five (45) days of receiving a revised petition, the authorized chartering entity shall review the revised petition and either approve or deny the petition based upon whether the petitioners have adequately addressed the specific deficiencies identified in the authorized chartering entity's written response, or based upon any other changes made to the petition, and upon no other criteria.

(3) An authorized chartering entity may approve a charter under the provisions of this chapter only if it determines that the petition contains the requisite signatures, the information required by subsections (4) and (5) of this section, and additional statements describing all of the following:

(a) The proposed educational program of the public charter school, designed among other things, to identify what it means to be an "educated person" in the twenty-first century, and how learning best occurs. The goals identified in the program shall include how all educational thor-

oughness standards as defined in section 33-1612, Idaho Code, shall be fulfilled.

(b) The measurable student educational standards identified for use by the public charter school. "Student educational standards" for the purpose of this chapter means the extent to which all students of the public charter school demonstrate they have attained the skills and knowledge specified as goals in the school's educational program.

(c) The method by which student progress in meeting those student educational standards is to be measured.

(d) A provision by which students of the public charter school will be tested with the same standardized tests as other Idaho public school students.

(e) A provision which ensures that the public charter school shall be state accredited as provided by rule of the state board of education.

(f) The governance structure of the public charter school including, but not limited to, the person or entity who shall be legally accountable for the operation of the public charter school, and the process to be followed by the public charter school to ensure parental involvement.

(g) The qualifications to be met by individuals employed by the public charter school. Instructional staff shall be certified teachers as provided by rule of the state board of education.

(h) The procedures that the public charter school will follow to ensure the health and safety of students and staff.

(i) A plan for the requirements of section 33-205, Idaho Code, for the denial of school attendance to any student who is an habitual truant, as defined in section 33-206, Idaho Code, or who is incorrigible, or whose conduct, in the judgment of the board of directors of the public charter school, is such as to be continuously disruptive of school discipline, or of the instructional effectiveness of the school, or whose presence in a public charter school is detrimental to the health and safety of other pupils, or who has been expelled from another school district in this state or any other state.

(j) The primary attendance area of the charter school, which shall be composed of a compact and contiguous area. For the purposes of this section, if services are available to students throughout the state, the state of Idaho is considered a compact and contiguous area.

(k) Admission procedures, including provision for overenrollment. Such admission procedures shall provide that the initial admission procedures for a new public charter school, including provision for overenrollment, will be determined by lottery or other random method, except as otherwise provided herein. If initial capacity is insufficient to enroll all pupils who submit a timely application, then the admission procedures may provide that preference shall be given in the following order: first, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; second, to siblings of pupils already selected by the lottery or other random method; third, to students residing within the primary attendance area of the public charter school; and fourth, by an equitable selection process such as a lottery or other random method. If so stated in its petition, a new public charter school may include the children of full-time employees of the public charter school within the first priority group subject to the limitations therein. Otherwise, such children shall be included in the highest priority group for which they would otherwise be eligible. If capacity is insufficient to enroll all pupils who submit a timely application for subsequent school terms, then the admission procedures may provide that preference shall be given in the following order: first, to pupils returning to the public charter school in the second or

any subsequent year of its operation; second, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; third, to siblings of pupils already enrolled in the public charter school; fourth, to students residing within the primary attendance area of the public charter school; and fifth, by an equitable selection process such as a lottery or other random method. There shall be no carryover from year to year of the list maintained to fill vacancies. A new lottery shall be conducted each year to fill vacancies which become available. If so stated in its petition, a public charter school may include the following children within the second priority group subject to the limitations therein:

(i) The children of full-time employees of the public charter school;

(ii) Children who previously attended the public charter school within the previous three (3) school years, but who withdrew as a result of the relocation of a parent or guardian due to an academic sabbatical, employer or military transfer or reassignment.

Otherwise, such children shall be included in the highest priority group for which they would otherwise be eligible.

(l) The manner in which annual audits of the financial and programmatic operations of the public charter school are to be conducted.

(m) The disciplinary procedures that the public charter school will utilize, including the procedure by which students may be suspended, expelled and reenrolled, and the procedures required by section 33-210, Idaho Code.

(n) A provision which ensures that all staff members of the public charter school will be covered by the public employee retirement system, federal social security, unemployment insurance, worker's compensation insurance, and health insurance.

(o) If the public charter school is a conversion of an existing traditional public school, the public school attendance alternative for students residing within the school district who choose not to attend the public charter school.

(p) A description of the transfer rights of any employee choosing to work in a public charter school that is approved by the board of trustees of a school district, and the rights of such employees to return to any noncharter school in the same school district after employment at such charter school.

(q) A provision which ensures that the staff of the public charter school shall be considered a separate unit for purposes of collective bargaining.

(r) The manner by which special education services will be provided to students with disabilities who are eligible pursuant to the federal individuals with disabilities education act, including disciplinary procedures for these students.

(s) A plan for working with parents who have students who are dually enrolled pursuant to section 33-203, Idaho Code.

(t) The process by which the citizens in the primary attendance area shall be made aware of the enrollment opportunities of the public charter school.

(u) A proposal for transportation services including estimated first year costs.

(v) A plan for termination of the charter by the board of directors, to include:

(i) Identification of who is responsible for dissolution of the charter school;

(ii) A description of how payment to creditors will be handled;

- (iii) A procedure for transferring all records of students with notice to parents of how to request a transfer of student records to a specific school; and
- (iv) A plan for the disposal of the public charter school's assets.

(4) ~~The public charter school commission~~ An authorized chartering entity, except for a school district board of trustees, may approve a charter for a public virtual school under the provisions of this chapter only if it determines that the petition contains the requirements of subsections (3) and (5) of this section and the additional statements describing the following:

- (a) The learning management system by which courses will be delivered;
- (b) The role of the online teacher, including the consistent availability of the teacher to provide guidance around course material, methods of individualized learning in the online course and the means by which student work will be assessed;
- (c) A plan for the provision of professional development specific to the public virtual school environment;
- (d) The means by which public virtual school students will receive appropriate teacher-to-student interaction, including timely and frequent feedback about student progress;
- (e) The means by which the public virtual school will verify student attendance and award course credit. Attendance at public virtual schools shall focus primarily on coursework and activities that are correlated to the Idaho state thoroughness standards;
- (f) A plan for the provision of technical support relevant to the delivery of online courses;
- (g) The means by which the public virtual school will provide opportunity for student-to-student interaction; and
- (h) A plan for ensuring equal access to all students, including the provision of necessary hardware, software and internet connectivity required for participation in online coursework.

(5) The petitioner shall provide information regarding the proposed operation and potential effects of the public charter school including, but not limited to, the facilities to be utilized by the public charter school, the manner in which administrative services of the public charter school are to be provided and the potential civil liability effects upon the public charter school and upon the authorized chartering entity.

(6) An initial charter, if approved, shall be granted for a term of three (3) operating years. This term shall commence on the public charter school's first day of operation.

SECTION 5. That Section 33-5205A, Idaho Code, be, and the same is hereby amended to read as follows:

33-5205A. TRANSFER OF CHARTER. (1) A charter and performance certificate for a public charter school approved by the board of trustees of a local school district may be transferred to, and placed under the chartering authority of, the public charter school commission any authorized chartering entity if the board of trustees of such local school district current authorizer, the public charter school commission receiving authorizer, and the board of directors of the public charter school all agree to such transfer, including any revision to the charter and performance certificate that may be required in connection with such transfer. A charter for a public charter school approved by the public charter school commission may be transferred to, and placed under the chartering authority of, the board of trustees of the local school district in which the public charter school is located if the public charter school commission, the board of trustees of such local school district, and the board of directors of the public charter school all

~~agree to such transfer, including any revisions to the charter that may be required in connection with such transfer. Provided however, that a charter and performance certificate shall not be transferred to a school district board of trustees in which the public charter school is not physically located.~~ A request to transfer a charter may be initiated by the board of directors of a public charter school or by the authorized chartering entity with chartering authority over the charter of such public charter school.

(2) A public charter school, ~~authorized by the public charter school commission~~ any authorized chartering entity except a school district board of trustees, which has a primary attendance area located within more than one (1) school district, may transfer the physical location of its public charter school within its primary attendance area to locate the facilities within the boundaries of another school district within the primary attendance area if the ~~public charter school commission~~ authorized chartering entity, the board of trustees of each of the relevant school districts and the board of directors of the public charter school all approve of such transfer of facilities location, and if the ~~public charter school commission~~ authorized chartering entity approves any revisions to the charter that may be required in connection with such transfer.

(3) If all parties fail to reach agreement in regard to the request to transfer a charter and performance certificate, as required herein, then the matter may be appealed directly to the state board of education. With respect to such appeal, the state board of education shall substantially follow the procedure as provided in section 33-5207(5)(b), Idaho Code. A transferred charter school shall not be considered a new public charter school and ~~shall not be subject to the limitations of section 33-5203(2), Idaho Code.~~

SECTION 6. That Chapter 52, 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 33-5205B, Idaho Code, and to read as follows:

33-5205B. PERFORMANCE CERTIFICATES. (1) Within seventy-five (75) days of approval of a charter application, the authorized chartering entity and the governing board of the approved public charter school shall execute a performance certificate that clearly sets forth the academic and operational performance expectations and measures by which the public charter school will be judged and the administrative relationship between the authorized chartering entity and public charter school, including each party's rights and duties. The performance expectations and measures set forth in the performance certificate shall include, but need not be limited to, applicable federal and state accountability requirements. The performance provisions may be refined or amended by mutual agreement after the public charter school is operating and has collected baseline achievement data for its enrolled students.

(2) The performance certificate shall be signed by the president of the authorized chartering entity's governing board and the president of the public charter school's governing body. Within fourteen (14) days of executing a performance certificate, the authorized chartering entity shall submit to the state board of education written notification of the performance certificate execution, including a copy of the performance certificate.

(3) No public charter school may commence operations without a performance certificate executed in accordance with this provision and approved in an open meeting of the authorized chartering entity's governing board.

(4) All public charter schools approved prior to July 1, 2013, shall execute performance certificates with their authorizers no later than July 1, 2014. Such certificates shall ensure that each public charter school approved prior to July 1, 2014, is evaluated for renewal or nonrenewal between March 1, 2016, and March 1, 2019.

SECTION 7. That Section 33-5206, Idaho Code, be, and the same is hereby amended to read as follows:

33-5206. REQUIREMENTS AND PROHIBITIONS UPON APPROVAL OF A PUBLIC CHARTER SCHOOL. (1) In addition to any other requirements imposed in this chapter, a public charter school shall be nonsectarian in its programs, affiliations, admission policies, employment practices, and all other operations, shall not charge tuition, levy taxes or issue bonds, and shall not discriminate against any student on any basis prohibited by the federal or state constitutions or any federal, state or local law. Admission to a public charter school shall not be determined according to the place of residence of the student, or of the student's parent or guardian within the district, except that a new or conversion public charter school established under the provisions of this chapter shall adopt and maintain a policy giving admission preference to students who reside within the primary attendance area of that public charter school.

(2) No board of trustees shall require any employee of the school district to be involuntarily assigned to work in a public charter school.

(3) Certified teachers in a public charter school shall be considered public school teachers. Educational experience shall accrue for service in a public charter school and such experience shall be counted by any school district for any teacher who has been employed in a public charter school.

(4) Employment of charter school teachers and administrators shall be on written contract in form as approved by the state superintendent of public instruction, conditioned upon a valid certificate being held by such professional personnel at the time of entering upon the duties thereunder.

(5) No board of trustees shall require any student enrolled in the school district to attend a public charter school.

~~(6) Upon approval of the petition by the authorized chartering entity, the petitioner shall provide written notice of that approval, including a copy of the approved petition, to the state board of education. For the purpose of implementing the provisions of section 33-5203(2), Idaho Code, the state board of education shall assign a number to each petition it receives. Petitions shall be numbered based on the chronological order in which notice of the approved petition is received by the state board of education. Authorized chartering entities may establish reasonable pre-opening requirements or conditions to monitor the start-up progress of newly approved public charter schools and ensure that they are prepared to open smoothly on the date agreed, and to ensure that each school meets all building, health, safety, insurance and other legal requirements for school opening.~~

~~(7) Each public charter school shall annually submit a report to the authorized chartering entity which approved its charter. The report shall contain the audit of the fiscal and programmatic operations as required in section 33-5205(3)(1), Idaho Code, a report on student progress based on the public charter school's measurable student educational standards identified in section 33-5205(3)(b), Idaho Code, and a copy of the public charter school's accreditation report to the authorized chartering entity that approved its charter.~~

(8) A public charter school or the authorized chartering entity may enter into negotiations to revise its a charter or performance certificate at any time. A If a public charter school may petitions to revise its charter or performance certificate, at any time. The the authorized chartering entity's review of the revised petition shall be limited in scope solely to the proposed revisions. In these instances where Except for public charter schools authorized by a school district board of trustees, when a non-virtual public charter school submits a proposed charter revision to the public charter school commission its authorized chartering entity and such revision includes a proposal to increase such public charter school's

approved student enrollment cap by ten percent (10%) or more, the ~~commission~~ authorized chartering entity shall hold a public hearing on such petition. ~~The public charter school commission~~ authorized chartering entity shall provide the board of the local school district in which the public charter school is physically located, notice in writing of such hearing, no later than thirty (30) days prior to the hearing. The public hearing shall include any oral or written comments that an authorized representative of the school district in which the public charter school is physically located may provide regarding the impact of the proposed charter revision upon the school district. Such public hearing shall also include any oral or written comments that any petitioner may provide regarding the impact of the proposed charter revision upon such school district.

(9) When a charter is nonrenewed pursuant to the provisions of section 33-5209B, Idaho Code, ~~revoked pursuant to section 33-5209C, Idaho Code~~, or the board of directors of the public charter school terminates the charter, the assets of the public charter school remaining after all debts of the public charter school have been satisfied must be returned to the authorized chartering entity for distribution in accordance with applicable law.

SECTION 8. That Section 33-5207, Idaho Code, be, and the same is hereby amended to read as follows:

33-5207. CHARTER APPEAL PROCEDURE. (1) If a local school board of trustees, acting in its capacity as an authorized chartering entity, approves a petition for the conversion of an existing traditional public school within the school district over the objection of thirty (30) or more persons or employees of the district, or if an authorized chartering entity denies a petition for the establishment of a new public charter school for any reason including, but not limited to, failure by the petitioner to follow procedures or for failure to provide required information, then such decisions may be appealed to the state superintendent of public instruction within thirty (30) days of the date of the written decision, at the request of persons opposing the conversion of an existing traditional public school, or at the request of the petitioner whose request for a new charter was denied.

(2) The state superintendent of public instruction shall select a hearing officer to review the action of the authorized chartering entity, pursuant to section 67-5242, Idaho Code. The hearing officer shall, within thirty (30) days of receipt of the request, review the full record regarding the charter petition and convene a public hearing regarding the charter petition. Within ten (10) days of the public hearing, the hearing officer shall submit a written recommendation to the authorized chartering entity and to the persons requesting the review. The recommendation by the hearing officer either to affirm or reverse the decision of the authorized chartering entity shall be based upon the full record regarding the charter petition, including the standards and criteria contained in this chapter and upon any public charter school rules adopted by the state board of education. The recommendation shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the recommendations based on the applicable statutory provisions and factual information contained in the record.

(3) Within thirty (30) days following receipt of the hearing officer's written recommendation, the authorized chartering entity shall hold a meeting open to the public for the purpose of reviewing the hearing officer's written recommendation. Within ten (10) days of such meeting, the authorized chartering entity shall either affirm or reverse its initial decision. The authorized chartering entity's decision shall be in writing and contain findings which explain the reasons for its decision.

(4) If, upon reconsideration of a decision to approve the conversion of a traditional public school to a public charter school, the local school board:

(a) Affirms its initial decision to authorize such conversion, the charter shall be approved and there shall be no further appeal.

(b) Reverses its initial decision and denies the conversion, that decision is final and there shall be no further appeal.

(5) If, upon reconsideration of a decision to deny a petition for a public charter school, the authorized chartering entity:

(a) Reverses its initial decision and approves the public charter school petition, there shall be no further appeal.

(b) Affirms its initial decision denying the public charter school petition, the board of directors of the nonprofit corporation identified in the petition may appeal to the state board of education. The state board of education shall hold a public hearing within a reasonable time after receiving notice of such appeal but no later than sixty (60) calendar days after receiving such notice, and after the public hearing, shall take any of the following actions: (i) approve or deny the petition for the public charter school, provided that the state board of education shall only approve the petition if it determines that the authorized chartering entity failed to appropriately consider the charter petition, or if it acted in an arbitrary manner in denying the petition; ~~or (ii) remand the matter back to the authorized chartering entity, which shall have authority to further review and act on such matter as directed by the state board of education; or (iii) in the case of a denial by the board of a local school district, redirect the matter to another authorized chartering entity the public charter school commission for further review as directed by the state board of education.~~ Such public hearing shall be conducted pursuant to procedures as set by the state board of education.

(6) A public charter school for which a charter is approved by the state board of education shall qualify fully as a public charter school for all funding and other purposes of this chapter. The public charter school commission shall assume the role of the authorized chartering entity for any charter approved by the state board of education as provided in subsection (5) (b) of this section. Employees of a public charter school approved by the state board of education shall not be considered employees of the local school district in which the public charter school is located, nor of the state board of education, nor of the commission.

(7) The decision of the state board of education shall be subject to review pursuant to chapter 52, title 67, Idaho Code. Nothing in this section shall prevent a petitioner from bringing a new petition for a public charter school at a later time.

(8) There shall be no appeal of a decision by a local school board of trustees which denies the conversion of an existing traditional public school within that district to a public charter school, or by an authorized chartering entity which approves a petition for a public charter school.

SECTION 9. That Section 33-5208, Idaho Code, be, and the same is hereby amended to read as follows:

33-5208. PUBLIC CHARTER SCHOOL FINANCIAL SUPPORT. Except as provided in subsection (8) of this section, from the state educational support program the state department of education shall make the following apportionment to each public charter school for each fiscal year based on attendance figures submitted in a manner and time as required by the department of education:

(1) Per student support. Computation of support units for each public charter school shall be calculated as if it were a separate school accord-



ing to the schedules in section 33-1002(4), Idaho Code, except that public charter schools with fewer than one hundred (100) secondary ADA shall use a divisor of twelve (12) and the minimum units shall not apply, and no public charter school shall receive an increase in support units that exceeds the support units it received in the prior year by more than thirty (30). Funding from the state educational support program shall be equal to the total distribution factor, plus the salary-based apportionment provided in chapter 10, title 33, Idaho Code. Provided however, any public charter school that is formed by the conversion of an existing traditional public school shall be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no lower than the divisors of the school district in which the traditional public school is located, for each category of pupils listed.

(2) Special education. For each student enrolled in the public charter school who is entitled to special education services, the state and federal funds from the exceptional child education program for that student that would have been apportioned for that student to the school district in which the public charter school is located.

(3) Alternative school support. Public charter schools may qualify under the provisions of sections 33-1002 and 33-1002C, Idaho Code, provided the public charter school meets the necessary statutory requirements, and students qualify for attendance at an alternative school as provided by rule of the state board of education.

(4) Transportation support. Support shall be paid to the public charter school as provided in chapter 15, title 33, Idaho Code, and section 33-1006, Idaho Code. Each public charter school shall furnish the department with an enrollment count as of the first Friday in November, of public charter school students who are eligible for reimbursement of transportation costs under the provisions of this subsection and who reside more than one and one-half (1 1/2) miles from the school. The state department of education is authorized to include in the annual appropriation to the charter school sixty percent (60%) of the estimated transportation cost. The final appropriation payment in July shall reflect reimbursements of actual costs pursuant to section 33-1006, Idaho Code. To be eligible for state reimbursement under the provisions of section 33-1006, Idaho Code, the student to be transported must reside within the public charter school's primary attendance area, and must meet at least one (1) of the following two (2) criteria:

- (a) The student resides within the school district in which the public charter school is physically located; or
- (b) The student resides within fifteen (15) miles of the public charter school, by road.

The limitations placed by this subsection on the reimbursement of transportation costs for certain students shall not apply to public virtual schools.

(5) Payment schedule. The state department of education is authorized to make an advance payment of twenty-five percent (25%) of a public charter school's estimated annual apportionment for its first year of operation, and each year thereafter, provided the public charter school ~~has an increase of student population in any given year of twenty (20) students or more is serving more grades or at least ten percent (10%) more classes than the previous year,~~ to assist the school with initial start-up costs or payroll obligations. For a public charter school entering its second or greater year of operations, the state department of education may require documentation establishing the need for such an advance payment, including comparative class schedules and proof of a commensurate increase in the number of employees.

- (a) For a public charter school to receive the advance payment, the school shall submit its anticipated fall membership for each grade level to the state department of education by June 1.

(b) Using the figures provided by the public charter school, the state department of education shall determine an estimated annual apportionment from which the amount of the advance payment shall be calculated. Advance payment shall be made to the school on or after July 1 but no later than July 31.

(c) All subsequent payments, taking into account the one-time advance payment made for the first year of operation, shall be made to the public charter school in the same manner as other traditional public schools in accordance with the provisions of section 33-1009, Idaho Code.

A public charter school shall comply with all applicable fiscal requirements of law, except that the following provisions shall not be applicable to public charter schools: that portion of section 33-1004, Idaho Code, relating to reduction of the administrative and instructional staff allowance when there is a discrepancy between the number allowed and the number actually employed; and section 33-1004E, Idaho Code, for calculation of district staff indices.

(6) Nothing in this chapter shall be construed to prohibit any private person or organization from providing funding or other financial assistance to the establishment or operation of a public charter school.

(7) Nothing in this chapter shall prevent a public charter school from applying for federal grant moneys.

(8) (a) Each student in attendance at a public virtual school shall be funded based upon either the actual hours of attendance in the public virtual school on a flexible schedule, or the percentage of coursework completed, whichever is more advantageous to the school, up to the maximum of one (1) full-time equivalent student.

(b) All federal educational funds shall be administered and distributed to public charter schools, including public virtual schools, that have been designated by ~~the state board of education~~ as a local education agency (LEA), as provided in section 33-5203(7), Idaho Code.

(9) Nothing in this section prohibits separate face-to-face learning activities or services.

(10) The provisions of section 33-1021, Idaho Code, shall apply to public charter schools provided for in this chapter.

SECTION 10. That Section 33-5209, Idaho Code, be, and the same is hereby repealed.

SECTION 11. That Chapter 52, 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 33-5209A, Idaho Code, and to read as follows:

33-5209A. ACCOUNTABILITY. (1) Performance framework. The performance provisions within the performance certificate shall be based upon a performance framework that clearly sets forth the academic and operational performance indicators, measures and metrics that will guide the authorized chartering entity's evaluations of each public charter school. The performance framework shall include indicators, measures and metrics for, at a minimum:

- (a) Student academic proficiency;
- (b) Student academic growth;
- (c) College and career readiness (for high schools); and
- (d) Board performance and stewardship, including compliance with all applicable laws, regulations and terms of the performance certificate.

(2) Measurable performance targets shall be set by each public charter school in conjunction with its authorized chartering entity and shall, at a minimum, require that each school meet applicable federal, state and authorized chartering entity goals for student achievement.

(3) The performance framework shall allow the inclusion of additional rigorous, valid and reliable indicators proposed by a public charter school to augment external evaluations of its performance, provided that the authorized chartering entity approves the quality and rigor of such school-proposed indicators, and that they are consistent with the purposes of this chapter.

(4) For each public charter school it oversees, the authorized chartering entity shall be responsible for analyzing and reporting all data from state assessments in accordance with the performance framework.

SECTION 12. That Chapter 52, 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 33-5209B, Idaho Code, and to read as follows:

33-5209B. CHARTER RENEWALS. (1) A charter may be renewed for successive five (5) year terms of duration. An authorized chartering entity may grant renewal with specific, written conditions for necessary improvements to a public charter school. Any such specific, written conditions shall state the date by which the conditions must be met.

(2) Following the initial three (3) year term, an authorized chartering entity may nonrenew or grant renewal for an additional five (5) years, based upon the performance of the public charter school on the performance indicators, measures and metrics contained in the performance certificate. Subsequent renewals shall be for a term of five (5) years.

(3) No later than November 15, the authorized chartering entity shall issue a public charter school performance report and charter renewal application guidance to any public charter school whose charter will expire the following year. The performance report shall summarize the public charter school's performance record to date, based upon the data required by this chapter and the performance certificate, and shall provide notice of any weaknesses or concerns determined by the authorized chartering entity concerning the public charter school that may jeopardize its position in seeking renewal, if not timely rectified. The public charter school shall have thirty (30) days to respond to the performance report and submit any corrections or clarifications for the report.

(4) The renewal application guidance shall, at a minimum, provide an opportunity for the public charter school to:

(a) Present additional evidence, beyond the data contained in the performance report, supporting its case for charter renewal; and

(b) Describe improvements undertaken or planned for the school.

(5) The renewal application guidance shall include or refer explicitly to the criteria that will guide the authorized chartering entity's renewal decisions, which shall be based on independent fiscal audits and the performance framework set forth in the performance certificate.

(6) No later than December 15, the governing board of a public charter school seeking renewal shall submit a renewal application to the authorized chartering entity pursuant to the renewal application guidance issued by the authorized chartering entity. The authorized chartering entity shall vote on the renewal application no later than March 15.

(7) In making charter renewal decisions, every authorized chartering entity shall:

(a) Ground its decisions in evidence of the school's performance over the term of the performance certificate in accordance with the performance framework set forth in the performance certificate;

(b) Ensure that data used in making renewal decisions are available to the school and the public; and

(c) Provide a public report summarizing the evidence basis for each decision.

(8) An authorized chartering entity must develop revocation and nonrenewal processes that:

(a) Provide the charter holders with a timely notification of the prospect of revocation or nonrenewal and of the reasons for such possible closure, which shall be limited to failure to meet the terms of the performance certificate or the written conditions established pursuant to the provisions of subsection (1) of this section;

(b) Allow the charter holders a reasonable amount of time in which to prepare a response;

(c) Provide the charter holders with an opportunity to submit documents and give testimony challenging the rationale for closure and in support of the continuation of the school at an orderly proceeding held for that purpose;

(d) Allow the charter holders to be represented by counsel and to call witnesses on their behalf;

(e) Permit the recording of such proceedings; and

(f) After a reasonable period for deliberation, require a final determination to be made and conveyed in writing to the charter holders.

(9) An authorized chartering entity shall renew any charter in which the public charter school met all of the terms of its performance certificate at the time of renewal. An authorized chartering entity may renew or nonrenew any charter in which the public charter school failed to meet one (1) or more of the terms of its performance certificate.

SECTION 13. That Chapter 52, 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 33-5209C, Idaho Code, and to read as follows:

33-5209C. ENFORCEMENT -- REVOCATION -- APPEAL. (1) An authorized chartering entity shall continually monitor the performance and legal compliance of the public charter schools it oversees, including collecting and analyzing data to support ongoing evaluation according to the performance certificate. Every authorized chartering entity shall have the authority to conduct or require oversight activities that enable the authorized chartering entity to fulfill its responsibilities pursuant to the provisions of this chapter, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of this chapter, adhere to the terms of the performance certificate and do not unduly inhibit the autonomy granted to public charter schools.

(2) Each authorized chartering entity shall annually publish and make available to the public a performance report for each public charter school it oversees, in accordance with the performance framework set forth in the performance certificate and section 33-5209A, Idaho Code. The authorized chartering entity may require each public charter school it oversees to submit an annual report to assist the authorized chartering entity in gathering complete information about each school consistent with the performance framework. Each public charter school shall publish its annual performance report on the school's website.

(3) If an authorized chartering entity has reason to believe that a public charter school cannot remain fiscally sound for the remainder of its certificate term, it shall provide the state department of education with written notification of such concern. Upon receiving such notification, the state department of education shall have the authority to modify the percentage of the total appropriation to be paid to the public charter school pursuant to the provisions of section 33-1009(1), Idaho Code, such that equal percentages are paid on each of the prescribed dates.

(4) If an authorized chartering entity has reason to believe that a public charter school has violated any provision of law, it shall notify the

public charter school and the entity responsible for administering said law of the possible violation.

(5) If an authorized chartering entity revokes or does not renew a charter, the authorized chartering entity shall clearly state, in a resolution of its governing board, the reasons for the revocation or nonrenewal.

(6) Within fourteen (14) days of taking action to renew, not renew or revoke a charter, the authorized chartering entity shall report to the state board of education the action taken and shall provide a copy of the report to the public charter school at the same time that the report is submitted to the state board of education. The report shall include a copy of the authorized chartering entity's resolution setting forth the action taken and reasons for the decision and assurances as to compliance with all of the requirements set forth in this chapter.

(7) A charter may be revoked by the authorized chartering entity if the public charter school has failed to meet any of the specific, written conditions for necessary improvements established pursuant to the provisions of section 33-5209B(1), Idaho Code, by the dates specified. Revocation may not occur until the public charter school has been afforded a public hearing, unless the authorized chartering entity determines that the continued operation of the public charter school presents an imminent public safety issue, in which case the charter may be revoked immediately. Public hearings shall be conducted by the authorized chartering entity or such other person or persons appointed by the authorized chartering entity to conduct public hearings and receive evidence as a contested case in accordance with the provisions of section 67-5242, Idaho Code. Notice and opportunity to reply shall include, at a minimum, written notice setting out the basis for consideration of revocation, a period of not less than thirty (30) days within which the public charter school can reply in writing, and a public hearing within thirty (30) days of the receipt of the written reply.

(8) A decision to revoke or nonrenew a charter or to deny a revision of a charter may be appealed directly to the state board of education. With respect to such appeal, the state board of education shall substantially follow the procedure as provided in section 33-5207(5)(b), Idaho Code. In the event the state board of education reverses a decision of revocation or nonrenewal, the public charter school subject to such action shall then be placed under the chartering authority of the public charter school commission.

SECTION 14. That Section 33-5211, Idaho Code, be, and the same is hereby amended to read as follows:

33-5211. TECHNICAL SUPPORT AND INFORMATION. (1) The state department of education shall provide technical assistance to persons or groups preparing or revising charter petitions and to existing public charter schools in the same manner as such assistance is provided to traditional public schools and school districts.

(2) Upon request, the state department of education shall provide the following information concerning a public charter school whose petition has been approved:

(a) The public charter school's ~~petition~~ charter and performance certificate;

(b) The annual audit performed at the public charter school pursuant to the public charter school ~~petition~~; and

(c) Any written report by the state board of education to the legislature reviewing the educational effectiveness of public charter schools.

(3) At least one (1) person among a group of petitioners of a prospective public charter school shall attend a public charter school workshop offered by the state department of education. The state department of

education shall provide notice of dates and locations when workshops will be held and shall provide proof of attendance to workshop attendees. Such proof shall be submitted by the petitioners to an authorized chartering entity along with the charter petition.

(4) Prior to submission of a petition for a new or conversion public charter school to an authorized chartering entity, the state department of education must conduct a sufficiency review of the petition and provide to the petitioners, in writing, the findings of such review.

SECTION 15. That Chapter 52, 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 33-5212, Idaho Code, and to read as follows:

33-5212. SCHOOL CLOSURE AND DISSOLUTION. (1) Prior to any public charter school closure decision, an authorized chartering entity shall have developed a public charter school closure protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, and proper disposition of school funds, property and assets in accordance with the requirements of this chapter. The protocol shall specify tasks, timelines and responsible parties, including delineating the respective duties of the school and the authorized chartering entity. In the event of a public charter school closure for any reason, the authorized chartering entity shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students and parents, as guided by the closure protocol. The closing school's board of directors shall be responsible for executing the school's closure.

(2) In the event of a public charter school closure for any reason, the assets of the school shall be distributed first to satisfy outstanding payroll obligations for employees of the school, including any tax, public employee retirement system and other employee benefit obligations, then to creditors of the school, and then to the authorized chartering entity in the case of a public charter school authorized by the board of a local school district. In the case of a public charter school authorized by any other authorized chartering entity, any remaining assets shall be distributed to the public school income fund. Assets purchased using federal funds shall be returned to the authorized chartering entity for redistribution among other public charter schools. If the assets of the school are insufficient to pay all parties to whom the school owes compensation, the prioritization of the distribution of assets may be determined by decree of a court of law.

SECTION 16. 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 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, subject to law, regarding the governance and administration of the commission.

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

(a) ~~Three (3) members shall be current or former members of boards of directors of Idaho public charter schools and shall be appointed by the governor, subject to the advice and consent of the senate; provided however, that no current board member of a public charter school authorized by the commission shall be eligible for appointment;~~

(b) ~~Three (3)~~ Two (2) members shall be ~~current or former trustees of an Idaho school district and shall be appointed by the governor, subject to the advice and consent of the senate~~ speaker of the house of representatives; and

(c) ~~One (1)~~ Two (2) members shall be ~~a member of the public at large not directly associated with the Idaho public education system and shall be appointed by the governor, subject to the advice and consent of the senate~~ 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.

The term of office for commission members shall be four (4) years. In making such appointments, the ~~governor~~ 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.

(4) 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.

(5) 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.

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

SECTION 17. Section 9 of this act shall be in full force and effect on and after June 1, 2014. All other sections of this act shall be in full force and effect on and after July 1, 2013.

Approved April 11, 2013.

CHAPTER 344  
(H.B. No. 231, As Amended)

AN ACT

RELATING TO PUBLIC WORKS; AMENDING SECTION 44-1001, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE EMPLOYMENT OF RESIDENTS OF IDAHO IN PUBLIC WORKS; AND AMENDING SECTION 67-2808, IDAHO CODE, TO PROVIDE FOR PUBLIC WORKS CONSTRUCTION, SERVICES OR PERSONAL PROPERTY AND TO MAKE A TECHNICAL CORRECTION.

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 all such a cases such 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 soldiers, sailors, and marines, prohibiting as unlawful any other preference or discrimination among the citizens of the United States.

SECTION 2. That Section 67-2808, Idaho Code, be, and the same is hereby amended to read as follows:

67-2808. EMERGENCY EXPENDITURES -- SOLE SOURCE EXPENDITURES. (1) Emergency expenditures.

(a) The governing board of a political subdivision may declare that an emergency exists and that the public interest and necessity demand the immediate expenditure of public money if:

(i) There is a great public calamity, such as an extraordinary fire, flood, storm, epidemic or other disaster;

(ii) It is necessary to do emergency work to prepare for the national or local defense; or

(iii) It is necessary to do emergency work to safeguard life, health or property.

(b) Upon making the declaration of emergency, any sum required in the emergency may be expended without compliance with formal bidding procedures.

(2) Sole source expenditures.

(a) The governing board of a political subdivision may declare that there is only one (1) vendor if there is only one (1) vendor for the public works construction, services or personal property to be acquired. For purposes of this subsection ~~(2)~~, only one (1) vendor shall refer to situations where there is only one (1) source reasonably available and shall include, but not be limited to, the following situations:

(i) Where public works construction, services or personal property is required to respond to a life-threatening situation or a



situation which is immediately detrimental to the public welfare or property;

(ii) Where the compatibility of equipment, components, accessories, computer software, replacement parts or service is the paramount consideration;

(iii) Where a sole supplier's item is needed for trial use or testing;

(iv) The purchase of mass-produced movies, videos, books or other copyrighted materials;

(v) The purchase of public works construction, services or personal property for which it is determined there is no functional equivalent;

(vi) The purchase of public utility services;

(vii) The purchase of products, merchandise or trademarked goods for resale at a political subdivision facility; or

(viii) Where competitive solicitation is impractical, disadvantageous or unreasonable under the circumstances.

(b) Upon making the declaration that there is only one (1) vendor for public works construction, services or personal property, unless the public works construction, services or personal property is required for a life-threatening situation or a situation that is immediately detrimental to the public welfare or property, notice of a sole source procurement shall be published in the official newspaper of the political subdivision at least fourteen (14) calendar days prior to the award of the contract.

Approved April 11, 2013.

CHAPTER 345  
(H.B. No. 245)

AN ACT

RELATING TO THE STATE ATHLETIC COMMISSION; AMENDING SECTION 54-406, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DUTIES OF THE ATHLETIC COMMISSION AND TO PROVIDE FOR THE RECOVERY OF CERTAIN COSTS AND FEES; AMENDING SECTION 54-411, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE PAYMENT OF AN INITIAL EVENT TAX, TO REVISE PROVISIONS RELATING TO AN ADDITIONAL EVENT TAX, TO ESTABLISH PROVISIONS RELATING TO THE ISSUANCE OF TICKETS AND TO ESTABLISH PROVISIONS RELATING TO THE SUSPENSION OF OPERATIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-406, Idaho Code, be, and the same is hereby amended to read as follows:

54-406. DUTIES OF COMMISSION -- SANCTIONING PERMITS -- LICENSING -- EXEMPTIONS -- MEDICAL CERTIFICATION. (1) The commission shall have power, and it shall be its duty, to direct, supervise and control all amateur and professional contests and exhibitions within the state and no such contest or exhibition shall be held or given within this state except in accordance with the provisions of this chapter. The commission has authority to adopt rules to implement the provisions of this chapter and to implement each of the duties and responsibilities conferred upon the commission including, but not limited to:

(a) Development of an ethical code of conduct for commissioners, commission staff and commission officials;

(b) Facility and safety requirements relating to the ring, floor plan and apron seating, emergency medical equipment and services, and other equipment and services necessary for the conduct of a program of matches;

(c) Requirements regarding a participant's apparel, bandages, hand-wraps, gloves, mouthpiece and appearance during a match;

(d) Requirements relating to a manager's participation, presence and conduct during a match;

(e) Duties and responsibilities of all licensees under this chapter;

(f) Procedures for hearings and resolution of disputes, including the commission's recovery of its costs and fees incurred from an unsuccessful challenger of a contest decision as well as a deposit in an amount determined by the commission;

(g) Qualifications for appointment of referees and judges;

(h) Designation and duties of a knockdown timekeeper;

(i) Setting fee and reimbursement schedules for referees and other officials appointed by the commission or the representative of the commission;

(j) Establishment of criteria for approval, disapproval, suspension of approval and revocation of approval of amateur sanctioning organizations for amateur contests and exhibitions held in this state including, but not limited to, the health and safety standards the organizations use before, during and after the matches to ensure the health, safety and well-being of the amateur combatants participating in the matches, including the qualifications and numbers of health care personnel required to be present, the qualifications required for referees, and other requirements relating to the health, safety and well-being of the amateur combatants participating in the matches. The commission may adopt by rule, or incorporate by reference into rule, the health and safety standards of United States amateur boxing, inc., as the minimum health and safety standards for an amateur boxing sanctioning organization, and the health and safety standards of the international amateur kickboxing sport association as the minimum health and safety standards for an amateur kickboxing sanctioning organization; and

(k) Establish fees to be paid by an amateur athletic sanctioning organization that is approved pursuant to subsection (3) (b) (ii) of this section, which fees shall include:

(i) Initial and annual application processing fees of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000); and

(ii) Initial and annual approval fees of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000).

(2) The commission may, in its discretion, issue or refuse to issue and for cause immediately revoke any sanctioning permit whether or not an admission fee is charged by any person, organization, association or fraternal society. The commission may also, in its discretion, issue or refuse to issue and for cause immediately revoke, suspend or otherwise discipline licenses for participants of sanctioned contests and exhibitions. The commission may recover the costs and fees incurred in the investigation and prosecution of a licensee or permit holder who is found in violation of the provisions of this chapter or the commission's rules.

(3) Specifically exempt from the provisions of this chapter are all contests or exhibitions that:

(a) Are contests or exhibitions conducted by any secondary school, college or university, whether public or private, where all the participating contestants are bona fide students enrolled in any secondary school, college or university, within or without this state;

(b) Are entirely contests or exhibitions in which all combatants are amateurs and which have been sanctioned as amateur athletic contests or exhibitions by any of the following associations:

(i) United States amateur boxing, inc., also known as USA boxing, inc., the amateur athletic union of the United States, inc., also known as the national amateur athletic union, the amateur athletic union and the AAU or any similar nationally recognized entity approved by the commission; or

(ii) Any other entity that the commission approves to be an amateur athletic sanctioning organization, which approval shall be subject to annual review for purposes of renewal. Notwithstanding any other provision of this chapter, the promoter of any contest or exhibition sanctioned by an organization approved pursuant to this subparagraph shall comply with sections 54-408, 54-411, 54-413, 54-417, 54-419, 54-421 and 54-422, Idaho Code, and the promoter and each participant in such contest or exhibition are subject to sections 54-416, 54-418 and 54-420, Idaho Code, unless specifically exempted by commission rule;

(c) Are contests or exhibitions held under the auspices or sanction of an established nonprofit secondary school activities organization or of its public or nonprofit accredited secondary school members, or held under the auspices or sanction of an established college or university activities organization or its public or not-for-profit accredited college or university members; or

(d) Are contests or exhibitions conducted by any military installation or branch of the United States armed forces, or the state national guard, where the participants are employed by the military installation, are members of the branch of the armed forces, or the state national guard unit conducting the contest or exhibition.

(4) Provided further that every combatant in any contest or exhibition exempt under the provisions of this chapter, prior to engaging in and conducting such contest or exhibition, shall be examined by a licensed physician at least once in each calendar year, or where such contest is conducted by a secondary school, college or university or organization as further described in this section, once in each academic year in which instance the physician shall also designate the maximum and minimum weights at which the combatant shall be medically certified to participate. Provided further that no combatant shall be permitted to participate in any such contest or exhibition in any weight classification other than that or those for which he is certificated. Provided further that the exempted organizations shall be governed by the provisions of section 54-414, Idaho Code, as that section applies to contests or exhibitions conducted by persons exempted in this section from the general provisions of this chapter. No contest or exhibition shall be conducted within this state except pursuant to a license issued in accordance with the provisions of this chapter and the rules of the commission except as hereinabove provided.

SECTION 2. That Section 54-411, Idaho Code, be, and the same is hereby amended to read as follows:

54-411. STATEMENT AND REPORT OF EVENT -- TAX ON GROSS RECEIPTS. (1) Any promoter as herein provided shall, at least seven (7) days prior to the holding of any contest or exhibition, file with the commission a statement setting forth the name of each combatant, his manager or managers, the total number of tickets available for the contest or exhibition and such other information as the commission may require. The promoter shall simultaneously pay to the commission at the time of the sanctioning permit application an initial event tax of four hundred one thousand dollars (\$400,000). Within seventy-two (72) hours after the termination of any contest or exhibition

the promoter shall file with the commission representative a gross receipts report, duly verified as the commission may require showing the number of tickets sold for such contest or exhibition, the price charged for such tickets and the gross receipts thereof without any deduction whatsoever, and such other and further information as the commission may require. If the initial event tax previously paid is less than five nine percent (59%) of the gross receipts for the event, then the promoter shall pay to the commission at the time of filing the above report an additional event tax equal to five nine percent (59%) of the gross receipts, minus the initial event tax previously paid, for deposit by the commission.

(2) All tickets for any contest or exhibition shall be issued, sold and distributed by an independent ticket distributor or broker not associated with the promoter and not associated with the venue unless approved by the commission. The number of complimentary tickets shall be limited to two percent (2%) of the total tickets sold per event location. All complimentary tickets exceeding this set amount shall be subject to taxation. The promoter shall limit the number of persons admitted to the event to the number of available tickets that are actually sold, given away or otherwise issued for the event.

(3) Gross receipts reports signed under oath shall also include:

- (a) The name of the promoter;
- (b) The contest or exhibition sanctioning permit number;
- (c) The promoter's business address and any license or sanctioning permit number required of such promoter by law;
- (d) Gross receipts as specified by this section, during the period specified by this section; and
- (e) Such further information as the commission may require to enable it to compute correctly and collect the assessment levied pursuant to this section.

(4) In addition to the information required on gross receipts reports, the commission may request, and the promoter shall furnish, any information deemed necessary for a correct computation of the assessment levied pursuant to this section.

(5) All levies pursuant to this section shall be collected by the commission and shall be deposited in the state treasury to the credit of the occupational licenses fund.

(6) The moneys collected from the assessment levied pursuant to the provisions of this section shall be in addition to all other revenues and funds received by the commission.

(7) The promoter shall compute and pay to the commission the required assessment due. If the payment of the assessment is not postmarked or delivered to the commission as specified in subsection (1) of this section, the assessment shall be delinquent from such date. In addition, if the promoter has not paid the initial event tax as provided in subsection (1) of this section, the promoter shall not hold the event.

(8) Of the moneys collected by the commission pursuant to the tax authorized in subsection (1) of this section, up to five percent (5%) of said tax may be used by the commission for the promotion and support of amateur contests and exhibitions in this state. All parties interested in receiving a distribution must submit an application to the commission which shall include the name of the person or entity applying and a detailed description of what the applicant intends to do with the distribution if granted. The commission shall consider all applications and assign distributions, if any, at the end of each fiscal year to those applicants the commission deems most qualified. The commission may make such distributions only if the commission has a positive balance within the occupational licenses fund and sufficient revenue to cover its projected expenses for the upcoming year.

(9) It shall be the duty of every promoter required to make a gross receipts report and pay any assessment pursuant to the provisions of this sec-

tion to keep and preserve suitable records and documents which may be necessary to determine the amount of assessment due as will substantiate and prove the accuracy of such reports. All such records shall be preserved for a period of three (3) years, unless the commission, in writing, has authorized their destruction or disposal at an earlier date, and shall be open to examination at any time by the commission or by its authorized agents.

(10) In the event the state athletic commission's debt owed to the bureau of occupational licenses exceeds two hundred thousand dollars (\$200,000), the commission's operations will be suspended, including issuance of licenses and permits. In order for the commission's operations to be reinstated all outstanding debt owed to the bureau of occupational licenses must be paid in full.

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 April 11, 2013.

CHAPTER 346  
(H.B. No. 258)

AN ACT

RELATING TO LICENSES TO CARRY CONCEALED WEAPONS; AMENDING SECTION 18-3302, IDAHO CODE, TO REQUIRE THE SHERIFF TO PROVIDE THE APPLICANT WITH A COPY OF THE RESULTS OF THE APPLICANT'S RECORDS CHECK UPON REQUEST OF THE APPLICANT UNDER CERTAIN CONDITIONS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 18-3302, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302. ISSUANCE OF LICENSES TO CARRY CONCEALED WEAPONS. (1) The sheriff of a county, on behalf of the state of Idaho, shall, within ninety (90) days after the filing of an application by any person who is not disqualified from possessing or receiving a firearm under state or federal law, issue a license to the person to carry a weapon concealed on his person within this state. For licenses issued before July 1, 2006, a license shall be valid for four (4) years from the date of issue. For licenses issued on or after July 1, 2006, a license shall be valid for five (5) years from the date of issue. The citizen's constitutional right to bear arms shall not be denied to him, unless one (1) of the following applies. He:

- (a) Is ineligible to own, possess or receive a firearm under the provisions of state or federal law;
- (b) Is formally charged with a crime punishable by imprisonment for a term exceeding one (1) year;
- (c) Has been adjudicated guilty in any court of a crime punishable by imprisonment for a term exceeding one (1) year;
- (d) Is a fugitive from justice;
- (e) Is an unlawful user of, or addicted to, marijuana or any depressant, stimulant or narcotic drug, or any other controlled substance as defined in 21 U.S.C. 802;
- (f) Is currently suffering or has been adjudicated as follows, based on substantial evidence:
  - (i) Lacking mental capacity as defined in section 18-210, Idaho Code;

- (ii) Mentally ill as defined in section 66-317, Idaho Code;
  - (iii) Gravely disabled as defined in section 66-317, Idaho Code;
  - or
  - (iv) An incapacitated person as defined in section 15-5-101(a), Idaho Code.
- (g) Is or has been discharged from the armed forces under dishonorable conditions;
- (h) Is or has been adjudicated guilty of or received a withheld judgment or suspended sentence for one (1) or more crimes of violence constituting a misdemeanor, unless three (3) years have elapsed since disposition or pardon has occurred prior to the date on which the application is submitted;
- (i) Has had entry of a withheld judgment for a criminal offense which would disqualify him from obtaining a concealed weapon license;
- (j) Is an alien illegally in the United States;
- (k) Is a person who having been a citizen of the United States, has renounced his or her citizenship;
- (l) Is under twenty-one (21) years of age;
- (m) Is free on bond or personal recognizance pending trial, appeal or sentencing for a crime which would disqualify him from obtaining a concealed weapon license; or
- (n) Is subject to a protection order issued under chapter 63, title 39, Idaho Code, that restrains the person from harassing, stalking or threatening an intimate partner of the person or child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.

The license application shall be in a form to be prescribed by the director of the Idaho state police, and shall ask the name, address, description and signature of the licensee, date of birth, place of birth, social security number, military status, citizenship and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. The application shall indicate that provision of the social security number is optional. The license application shall contain a warning substantially as follows:

**CAUTION:** Federal law and state law on the possession of weapons and firearms differ. If you are prohibited by federal law from possessing a weapon or a firearm, you may be prosecuted in federal court. A state permit is not a defense to a federal prosecution.

The sheriff shall require any person who is applying for original issuance of a license to submit his fingerprints in addition to the other information required in this subsection. Within five (5) days after the filing of an application, the sheriff shall forward the application and fingerprints to the Idaho state police for a records check of state and national files. The Idaho state police shall conduct a national fingerprint-based records check and return the results to the sheriff within seventy-five (75) days. The sheriff shall not issue a license before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria listed in paragraphs (a) through (n) of this subsection. In the event the sheriff has collected a fee to cover the cost of processing fingerprints for the records check, the sheriff shall provide the applicant with a copy of the results of the records check upon request of the applicant.

The license will be in a form substantially similar to that of the Idaho driver's license. It will bear the signature, name, address, date of birth, picture of the licensee, expiration date and the driver's li-

cense number or state identification card number of the licensee if used for identification in applying for the license. Upon issuing a license under the provisions of this section, the sheriff will notify the Idaho state police on a form or in a manner prescribed by the state police. Information relating to an applicant or licensee received or maintained pursuant to this section by the sheriff or Idaho state police is confidential and exempt from disclosure under section 9-338, Idaho Code.

(2) The fee for original issuance of a license shall be twenty dollars (\$20.00) paid to the sheriff for the purpose of enforcing the provisions of this chapter. The sheriff may collect any additional fees necessary to cover the cost of processing fingerprints lawfully required by any state or federal agency or department, and the cost of materials for the license lawfully required by any state agency or department, which costs shall be paid to the state.

(3) The fee for renewal of the license shall be fifteen dollars (\$15.00). The sheriff may collect any additional fees necessary to cover the processing costs lawfully required by any state or federal agency or department, and the cost of materials for the license lawfully required by any state agency or department, which costs shall be paid to the state. If a licensee applying for renewal has not previously been required to submit fingerprints, the sheriff shall require the licensee to do so and may collect any additional fees necessary to cover the cost of processing fingerprints lawfully required by any state or federal agency or department.

(4) Every license that is not, as provided by law, suspended, revoked or disqualified in this state shall be renewable at any time during the ninety (90) day period before its expiration or within ninety (90) days after the expiration date. Renewal notices shall be mailed out ninety (90) days prior to the expiration date of the license. The sheriff shall require the licensee applying for renewal to complete an application. The sheriff shall submit the application to the Idaho state police for a records check of state and national databases. The Idaho state police shall conduct the records check and return the results to the sheriff within thirty (30) days. The sheriff shall not issue a renewal before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria listed in subsection (1), paragraphs (a) through (n) of this section. A renewal license shall be valid for a period of five (5) years. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing ninety-one (91) days or more after the expiration date of the license shall pay a late renewal penalty of ten dollars (\$10.00) in addition to the renewal fee, except that any licensee serving on active duty in the armed forces of the United States during the renewal period shall not be required to pay a late renewal penalty upon renewing ninety-one (91) days or more after the expiration date of the license. The fee shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter.

(5) Notwithstanding the requirements of this section, the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section.

(6) A city, county or other political subdivision of this state shall not modify the requirements of this section, nor may a political subdivision ask the applicant to voluntarily submit any information not required in this section. A civil action may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section. The civil action may be brought in the county in which the application was made or in Ada county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of subsections (1) through (5) of this section, shall be awarded costs, including reasonable attorney's fees incurred in connection with the legal action.

(7) Except in the person's place of abode or fixed place of business, or on property in which the person has any ownership or leasehold interest, a person shall not carry a concealed weapon without a license to carry a concealed weapon. For the purposes of this section, a concealed weapon means any dirk, dirk knife, bowie knife, dagger, pistol, revolver or any other deadly or dangerous weapon. The provisions of this section shall not apply to any lawfully possessed shotgun or rifle.

(8) A county sheriff, deputy sheriff or county employee who issues a license to carry a concealed weapon under this section shall not incur any civil or criminal liability as the result of the performance of his duties under this section.

(9) While in any motor vehicle, inside the limits or confines of any city, a person shall not carry a concealed weapon on or about his person without a license to carry a concealed weapon. This shall not apply to any firearm located in plain view whether it is loaded or unloaded. A firearm may be concealed legally in a motor vehicle so long as the weapon is disassembled or unloaded.

(10) In implementing the provisions of this section on behalf of the state of Idaho, the sheriff shall make applications readily available at the office of the sheriff or at other public offices in his jurisdiction.

(11) The sheriff of a county may issue a license to carry a concealed weapon to those individuals between the ages of eighteen (18) and twenty-one (21) years who in the judgment of the sheriff warrant the issuance of the license to carry a concealed weapon. Such issuance shall be subject to limitations which the issuing authority deems appropriate. Licenses issued to individuals between the ages of eighteen (18) and twenty-one (21) years shall be easily distinguishable from regular licenses.

(12) The requirement to secure a license to carry a concealed weapon under this section shall not apply to the following persons:

(a) Officials of a county, city, state of Idaho, the United States, peace officers, guards of any jail, court appointed attendants or any officer of any express company on duty;

(b) Employees of the adjutant general and military division of the state where military membership is a condition of employment when on duty;

(c) Criminal investigators of the attorney general's office, criminal investigators of a prosecuting attorney's office, prosecutors and their deputies;

(d) Any person outside the limits of or confines of any city while engaged in lawful hunting, fishing, trapping or other lawful outdoor activity;

(e) Any publicly elected Idaho official;

(f) Retired peace officers or detention deputies with at least ten (10) years of service with the state or a political subdivision as a peace officer or detention deputy and who have been certified by the peace officer standards and training council;

(g) Any person who has a valid permit from a state or local law enforcement agency or court authorizing him to carry a concealed weapon. A permit issued in another state will only be considered valid if the permit is in the licensee's physical possession.

(13) When issuing a license pursuant to this section, the sheriff may require the applicant to demonstrate familiarity with a firearm and shall accept any of the following, provided the applicant may select whichever of the following applies:

(a) Completion of any hunter education or hunter safety course approved by the department of fish and game or a similar agency of another state;

(b) Completion of any national rifle association firearms safety or training course or any national rifle association hunter education course;



(c) Completion of any firearms safety or training course or class available to the general public offered by a law enforcement agency, community college, college, university, or private or public institution or organization or firearms training school, utilizing instructors certified by the national rifle association or the Idaho state police;

(d) Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of a law enforcement agency or security enforcement agency;

(e) Presents evidence or equivalent experience with a firearm through participation in organized shooting competition or military service;

(f) Is licensed or has been licensed to carry a firearm in this state or a county or municipality, unless the license has been revoked for cause;

or

(g) Completion of any firearms training or training or safety course or class conducted by a state certified or national rifle association certified firearms instructor.

(14) A person carrying a concealed weapon in violation of the provisions of this section shall be guilty of a misdemeanor.

(15) The sheriff of the county where the license was issued or the sheriff of the county where the person resides shall have the power to revoke a license subsequent to a hearing in accordance with the provisions of chapter 52, title 67, Idaho Code, for any of the following reasons:

(a) Fraud or intentional misrepresentation in the obtaining of a license;

(b) Misuse of a license, including lending or giving a license to another person, duplicating a license or using a license with the intent to unlawfully cause harm to a person or property;

(c) The doing of an act or existence of a condition which would have been grounds for the denial of the license by the sheriff;

(d) The violation of any of the terms of this section; or

(e) The applicant is adjudicated guilty of or receives a withheld judgment for a crime which would have disqualified him from initially receiving a license.

(16) A person twenty-one (21) years of age or older issued a license to carry a concealed weapon is exempt from any requirement to undergo a records check at the time of purchase or transfer of a firearm from a federally licensed firearms dealer. However, a temporary emergency license issued under subsection (5) of this section shall not exempt the holder of the license from any records check requirement. Temporary emergency licenses shall be easily distinguishable from regular licenses.

(17) The attorney general is authorized to negotiate reciprocal agreements with other states related to the recognition of licenses to carry concealed weapons. The Idaho state police shall keep a copy and maintain a record of all such agreements, which shall be made available to the public.

(18) The provisions of this section are hereby declared to be severable and if any provision of this section 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 remaining portions of this section.

Approved April 11, 2013.

## CHAPTER 347

(H.B. No. 259, As Amended in the Senate)

## AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-513, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO GRANTING AN EMPLOYEE'S REQUEST FOR VOLUNTARY LEAVE OF ABSENCE, TO ESTABLISH PROVISIONS RELATING TO THE DELEGATION OF AUTHORITY TO PLACE AN EMPLOYEE ON AN INVOLUNTARY LEAVE OF ABSENCE, TO ESTABLISH PROVISIONS RELATING TO THE RATIFICATION OR NULLIFICATION OF CERTAIN ACTIONS, TO ESTABLISH PROVISIONS RELATING TO A CRIMINAL COURT ORDER, TO ESTABLISH PROVISIONS RELATING TO THE SALARY OF AN EMPLOYEE DURING THE PERIOD OF INVOLUNTARY LEAVE OF ABSENCE WITHOUT PAY, TO ESTABLISH PROVISIONS RELATING TO CERTAIN CREDIT WITH THE IDAHO PUBLIC EMPLOYEE RETIREMENT SYSTEM AND COSTS ASSOCIATED WITH EMPLOYEE HEALTH INSURANCE BENEFITS, TO ESTABLISH PROVISIONS RELATING TO DUAL COURT ORDERS, TO ESTABLISH PROVISIONS RELATING TO AN INVESTIGATION, TO ESTABLISH PROVISIONS RELATING TO A PERSONNEL RECOMMENDATION, TO ESTABLISH PROVISIONS RELATING TO THE MODIFICATION OF TIMELINES, TO MAKE A CODIFIER'S CORRECTION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-513, Idaho Code, be, and the same is hereby amended to read as follows:

33-513. PROFESSIONAL PERSONNEL. The board of trustees of each school district, including any specially chartered district, shall have the following powers and duties:

1. To employ professional personnel, on written contract in form approved by the state superintendent of public instruction, conditioned upon a valid certificate being held by such professional personnel at the time of entering upon the duties thereunder. Should the board of trustees fail to enter into written contract for the employment of any such person, the state superintendent of public instruction shall withhold ensuing apportionments until such written contract be entered into. When the board of trustees has delivered a proposed contract for the next ensuing year to any such person, such person shall have a period of time to be determined by the board of trustees in its discretion, but in no event less than ten (10) days from the date the contract is delivered, in which to sign the contract and return it to the board. Delivery of a contract may be made only in person or by certified mail, return receipt requested. When delivery is made in person, delivery of the contract must be acknowledged by a signed receipt. When delivery is made by certified mail, delivery must be acknowledged by the return of the certified mail receipt from the person to whom the contract was sent. Should the person willfully refuse to acknowledge receipt of the contract or the contract is not signed and returned to the board in the designated period of time, the board may declare the position vacant.

The board of trustees shall withhold the salary of any teacher who does not hold a teaching certificate valid in this state. It shall not contract to require any teacher to make up time spent in attending any meeting called by the state board of education or by the state superintendent of public instruction; nor while attending regularly scheduled official meetings of the state teachers' association.

2. In the case of school districts other than elementary school districts, to employ a superintendent of schools for a term not to exceed three (3) years, who shall be the executive officer of the board of trustees with such powers and duties as the board may prescribe. The superintendent shall also act as the authorized representative of the district whenever such is

required, unless some other person shall be named by the board of trustees to act as its authorized representative. The board of trustees shall conduct an annual, written formal evaluation of the work of the superintendent of the district. The evaluation shall indicate the strengths and weaknesses of the superintendent's job performance in the year immediately preceding the evaluation and areas where improvement in the superintendent's job performance, in the view of the board of trustees, is called for.

3. To employ through written contract principals who shall hold a valid certificate appropriate to the position for which they are employed, who shall supervise the operation and management of the school in accordance with the policies established by the board of trustees and who shall be under the supervision of the superintendent.

4. To employ assistant superintendents and principals for a term not to exceed two (2) years. Service performed under such contract shall be included in meeting the provisions of section 33-515, Idaho Code, as a teacher and persons eligible for a renewable contract as a teacher shall retain such eligibility.

5. To suspend, grant leave of absence, place on probation or discharge certificated professional personnel for a material violation of any lawful rules or regulations of the board of trustees or of the state board of education, or for any conduct which could constitute grounds for revocation of a teaching certificate. Any certificated professional employee, except the superintendent, may be discharged during a contract term under the following procedures:

(a) The superintendent or any other duly authorized administrative officer of the school district may recommend the discharge of any certificated employee by filing with the board of trustees written notice specifying the alleged reasons for discharge.

(b) Upon receipt of such notice the board, acting through ~~their~~ its duly authorized administrative official, shall give the affected employee written notice of the allegations and the recommendation of discharge, along with written notice of a hearing before the board prior to any determination by the board of the truth of the allegations.

(c) The hearing shall be scheduled to take place not less than six (6) days nor more than twenty-one (21) days after receipt of the notice by the employee. The date provided for the hearing may be changed by mutual consent.

(d) The hearing shall be public unless the employee requests in writing that it be in executive session.

(e) All testimony at the hearing shall be given under oath or affirmation. Any member of the board, or the clerk of the board, may administer oaths to witnesses or affirmations by witnesses.

(f) The employee may be represented by legal counsel and/or by a representative of a local or state teachers association.

(g) The chairman of the board or the designee of the chairman shall conduct the hearing.

(h) The board 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 upon request of the employee.

(i) At the hearing, the superintendent or other duly authorized administrative officer shall present evidence to substantiate the allegations contained in such notice.

(j) The employee may produce evidence to refute the allegations. Any witness presented by the superintendent or by the employee shall be subject to cross-examination. The board may also examine witnesses and be represented by counsel.

(k) The affected employee may file written briefs and arguments with the board within three (3) days after the close of the hearing or such other time as may be agreed upon by the affected employee and the board.

(l) Within fifteen (15) days following the close of the hearing, the board shall determine and, acting through ~~their~~ its duly authorized administrative official, shall notify the employee in writing whether the evidence presented at the hearing established the truth of the allegations and whether the employee is to be retained, immediately discharged, or discharged upon termination of the current contract.

6. To grant an employee's request for voluntary leave of absence. The board of trustees may delegate ongoing authority to grant an employee's request for voluntary leave of absence to the district's superintendent or other designee. Upon the superintendent or designee's granting of an employee's request for voluntary leave of absence, the board shall ratify or nullify the action at the next regularly scheduled board meeting.

7. To delegate to the superintendent or other designee the ongoing authority to place any employee on a period of involuntary leave of absence should the superintendent or designee believe that such action is in the best interest of the district. Upon the superintendent or designee's action to place an employee on a period of involuntary leave of absence, the board shall ratify or nullify the action of the superintendent or designee at the next regularly scheduled meeting of the board or at a special meeting of the board should the next regularly scheduled meeting of the board not be within a period of twenty-one (21) days from the date of the action.

(a) Where there is a criminal court order preventing the employee from being in the presence of minors or students, preventing the employee from being in the presence of any other adult individual employed at the school or detaining the employee in prison or jail, the employee's involuntary leave of absence shall be without pay due to the employee's inability to perform the essential functions of the employee's position. Without such a condition or situation, the involuntary leave of absence shall be with pay.

(i) During the period of involuntary leave of absence without pay, the salary of the employee will be maintained in a district managed account. Should the employee return to the district for active employment subsequent to the removal or dismissal of the court order, acquittal or adjudication of innocence, the district shall remit the salary funds, less the cost incurred by the district for the substitute hired to replace the employee. Further, should the employee return to the district under the provisions established in this subsection, the district shall arrange to have the employee credited with the public employee retirement system of Idaho (PERSI) for the employee's time away from work during the period of leave of absence.

(ii) During the period of involuntary leave of absence, the district shall continue to pay the district's portion of monthly costs associated with employee health insurance benefits. The assumption of this payment by the district shall not alter the employee's financial obligations, if any, under the policy.

(b) Should there be dual court orders preventing more than one (1) employee from being in the presence of one (1) or more other employees, all employees subject to the court order shall be excluded from the school pursuant to subsection 7. (a) of this section.

(c) If the period of involuntary leave of absence is due to the district's need to conduct an investigation into the conduct of the employee, and there are no related criminal investigation(s) and/or criminal charges of any nature pending, the administration shall complete its investigation within a period of sixty (60) working days. On or before the sixtieth working day, the administrative leave shall

either cease and the employee shall be returned to his position of employment or the administration shall advance a personnel recommendation to the board of trustees. If a recommendation is advanced, the involuntary leave of absence shall continue until such time as the district board has made its decision in regard to the personnel recommendation with such decision effectively concluding the involuntary leave of absence. If a related criminal investigation is occurring and/or criminal charges are pending, the district shall not be bound to any limitation as to the duration of involuntary leave of absence. The timelines established in this section may be waived or modified by mutual agreement.

Approved April 11, 2013.

CHAPTER 348  
(H.B. No. 271)

AN ACT

RELATING TO WATER QUALITY; AMENDING SECTION 39-3602, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 39-3604, IDAHO CODE, TO CLARIFY THE DIRECTOR'S CONSIDERATIONS IN DESIGNATING BENEFICIAL USES AND TO PROVIDE THAT THE DIRECTOR CONSULT WITH BASIN ADVISORY GROUPS AND WATERSHED ADVISORY GROUPS; AMENDING SECTION 39-3605, IDAHO CODE, TO CLARIFY THE REQUIREMENT THAT THE DIRECTOR CONSULT WITH BASIN ADVISORY GROUPS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-3606, IDAHO CODE, TO CLARIFY THE DIRECTOR'S CONSIDERATIONS WHEN DETERMINING SUPPORT OF BENEFICIAL USES, TO PROVIDE THAT THE DIRECTOR CONSULT WITH BASIN ADVISORY GROUPS AND WATERSHED ADVISORY GROUPS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-3607, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR CONSULT WITH BASIN ADVISORY GROUPS AND WATERSHED ADVISORY GROUPS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 39-3609, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR CONSULT WITH BASIN ADVISORY GROUPS AND WATERSHED ADVISORY GROUPS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 39-3602, Idaho Code, be, and the same is hereby amended to read as follows:

39-3602. DEFINITIONS. Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context, the following terms shall have the following meanings:

(1) "Applicable water quality standard" means those water quality standards identified in the rules of the department.

(2) "Attainable" beneficial uses means uses that can be achieved by the implementation of required effluent limits for point sources and cost-effective and reasonable best management practices for nonpoint sources.

(3) "Best management practice" means practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals.

(4) "Board" means the board of environmental quality.

(5) "Consult" or "consultation" with basin advisory groups and watershed advisory groups, when not otherwise defined in this chapter, means that the director shall:

(a) Upon request, provide the groups with all available information in the possession of the department concerning the subject of the consultation;

(b) Utilize the knowledge, expertise, experience and information of the groups in making the determination that is the subject of the consultation; and

(c) Consider the groups' recommendations regarding the determination that is the subject of the consultation.

(6) "Control strategies" means cost-effective actions in TMDL implementation plans to control the discharge of pollutants that can reasonably be taken to improve the water quality within the physical, operational, economic and other constraints that affect individual enterprises and communities.

(67) "Degradation" or "lower water quality" means, for purposes of an tidegradation review, a change in a pollutant that is adverse to designated or existing uses, as calculated for a new point source, and based upon monitoring or calculated information for an existing point source increasing its discharge. Such degradation shall be calculated or measured after appropriate mixing of the discharge and receiving water body.

(78) "Department" means the department of environmental quality.

(89) "Designated agency" means the department of lands for timber harvest activities, for oil and gas exploration and development and for mining activities; the soil and water conservation commission for grazing activities and for agricultural activities; the transportation department for public road construction; the department of agriculture for aquaculture; and the department of environmental quality for all other activities.

(910) "Designated use or designated beneficial use" means those uses assigned to waters as identified in the rules of the department whether or not the uses are being attained. The department may adopt subcategories of a use.

(101) "Director" means the director of the department of environmental quality, or his or her designee.

(112) "Discharge" means any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. For the purposes of this chapter, discharge shall not include surface water runoff from nonpoint sources or natural soil disturbing events.

(123) "Existing use" means those surface water uses actually attained on or after November 28, 1975, whether or not they are designated uses. Existing uses may form the basis for subcategories of designated uses.

(134) "Full protection, full support, or full maintenance of designated beneficial uses of water" means compliance with those levels of water quality criteria listed in the appropriate rules of the department, or where there is no applicable numerical criteria, compliance with the reference streams or conditions approved by the director in consultation with the appropriate basin advisory group.

(145) "General permit" means an NPDES permit issued by the U.S. environmental protection agency authorizing a category of discharges under the federal clean water act or a nationwide or regional permit issued by the U.S. army corps of engineers under the federal clean water act.

(156) "Integrated report" means the consolidated listing and reporting of the state's water quality status pursuant to the federal clean water act.

(167) "National pollutant discharge elimination system (NPDES)" means the point source permitting program established pursuant to section 402 of the federal clean water act.

(178) "New nonpoint source activity" means a new nonpoint source activity or a substantially modified existing nonpoint source activity on or adversely affecting an outstanding resource water which includes, but is not limited to, new silvicultural activities, new mining activities and substantial modifications to an existing mining permit or approved plan,

new recreational activities and substantial modifications to existing recreational activities, new residential or commercial development that includes soil disturbing activities, new grazing activities and substantial modifications to existing grazing activities, except that reissuance of existing grazing permits, or grazing activities and practices authorized under an existing permit, is not considered a new activity. It does not include naturally occurring events such as floods, landslides, and wildfire including prescribed natural fire.

(189) "Nonpoint source activities" includes grazing, crop production, silviculture, log storage or rafting, construction, mining, recreation, septic systems, runoff from storms and other weather related events and other activities not subject to regulation under the federal national pollutant discharge elimination system. Nonpoint source activities on waters designated as outstanding resource waters do not include issuance of water rights permits or licenses, allocation of water rights, operation of diversions, or impoundments.

(1920) "Nonpoint source runoff" means water which may carry pollutants from nonpoint source activities into the waters of the state.

(201) "Outstanding resource water" means a high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been so designated by the legislature. It constitutes an outstanding national or state resource that requires protection from point source and nonpoint source activities that may lower water quality.

(212) "Person" means any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties.

(223) "Point source" means any discernible, confined, and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition.

(234) "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged or released to water in excessive quantities cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities.

(245) "Reference stream or condition" means one (1) of the following:

- (a) The minimum biological, physical and chemical conditions necessary to fully support the designated beneficial uses; or
- (b) A water body representing natural conditions with few impacts from human activities and which are representative of the highest level of support attainable in the basin; or
- (c) A water body representing minimum conditions necessary to fully support the designated beneficial uses.

In highly mineralized areas or in the absence of such reference streams or water bodies, the director, in consultation with the basin advisory group and the technical advisers to it, may define appropriate hypothetical reference conditions or may use monitoring data specific to the site in question to determine conditions in which the beneficial uses are fully supported.

(256) "Short-term or temporary activity" means an activity which is limited in scope and is expected to have only minimal impact on water quality as determined by the director. Short-term or temporary activities include, but are not limited to, maintenance of existing structures, limited road and trail reconstruction, soil stabilization measures, and habitat enhancement structures.

(267) "Silviculture" means those activities associated with the regeneration, growing and harvesting of trees and timber including, but not limited to, disposal of logging slash, preparing sites for new stands of trees to be either planted or allowed to regenerate through natural means, road construction and road maintenance, drainage of surface water which inhibits tree growth or logging operations, fertilization, application of herbicides or pesticides, all logging operations, and all forest management techniques employed to enhance the growth of stands of trees or timber.

(278) "Soil and water conservation commission" means an agency of state government as created in section 22-2718, Idaho Code.

(289) "Soil conservation district" means an entity of state government as defined in section 22-2717, Idaho Code.

(2930) "State" means the state of Idaho.

(301) "State water quality management plan" means the state management plan developed and updated by the department in accordance with sections 205, 208, and 303 of the federal clean water act.

(312) "Subbasin assessment" means a document that describes a watershed or watersheds for which a total maximum daily load is proposed, the water quality concerns, the status and attainability of designated uses and water quality criteria for individual water bodies, the nature and location of pollutant sources, past and ongoing pollutant control activities, and such other information that the director with the advice of the local watershed advisory group determines is pertinent to the analysis of water quality and the development and implementation of a total maximum daily load.

(323) "Total maximum daily load (TMDL)" means a plan for a water body not fully supporting designated beneficial uses and includes the sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, and natural background levels of the pollutant impacting the water body. Pollutant allocations established through TMDLs shall be at a level necessary to implement the applicable water quality standards for the identified pollutants with seasonal variations and a margin of safety to account for uncertainty concerning the relationship between the pollutant loading and water quality standards.

(334) "Waters or water body" means the navigable waters of the United States as defined in the federal clean water act. For the purposes of this chapter, water bodies shall not include municipal or industrial wastewater treatment or storage structures or private reservoirs, the operation of which has no effect on waters.

(345) "Water pollution" is such alteration of the thermal, chemical, biological or radioactive properties of any waters of the state, or such discharge or release of any contaminant into the waters of the state as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare or to domestic, commercial, industrial, recreational, aesthetic or other legitimate uses or to livestock, wild animals, birds, fish or other aquatic life.

(356) "Water quality standards" are the designated uses of a water body and water quality criteria necessary to support those uses, and an antidegradation policy.

(367) "Watersheds" means the land area from which water flows into a stream or other body of water which drains the area. For the purposes of this chapter, the area of watersheds shall be recommended by the basin advisory group described in section 39-3613, Idaho Code.



SECTION 2. That Section 39-3604, Idaho Code, be, and the same is hereby amended to read as follows:

39-3604. DESIGNATION OF INSTREAM BENEFICIAL USES. ~~(1) For each surface water body, the director shall designate, pursuant to chapter 52, title 67, Idaho Code, and specifically list in the rules of the department, the beneficial uses which that each surface water body can reasonably be expected to support without regard to whether that use is fully supported at the time of such designation. In making such designations, the director shall consider the existing use of the water body and such physical, geological, chemical and biological measures as may affect the water body and shall make such designations utilizing fully the public participation provisions set forth in this chapter. Designated uses as set forth in this chapter shall fully support existing uses. Designations of beneficial uses shall be reviewed as necessary and revised when such physical, chemical or biological measures indicate the need to do so attain.~~

(2) In revising a designated beneficial use, Designated beneficial uses shall reflect existing uses. The director shall designate beneficial uses without regard to whether the uses are currently being attained or whether the uses are fully supported at the time of designation. In designating beneficial uses, the director shall consider:

(a) The existing uses of the water body;

(b) The physical, geological, hydrological, atmospheric, chemical and biological measures that affect the water body;

(c) The beneficial use attainability measures identified in section 39-3607, Idaho Code; and

(d) The economic impact of the revision designation and the economic costs required to fully support the revised designated beneficial uses.

(3) When designating beneficial uses for a water body, the director shall consult with the basin advisory group and the watershed advisory group with the responsibilities described in this chapter for the water body. After consultation, the director shall identify the designated beneficial uses of each water body in the rules of the department pursuant to the rulemaking and public participation provisions of chapter 52, title 67, Idaho Code.

(4) There shall be no requirement for persons who either conduct non-point activities or who conduct operations on waters described in section 39-3609, Idaho Code, pursuant to a national pollution discharge elimination system permit, shall not be required to meet water quality criteria other than those necessary for the full support of the a water body's existing and designated beneficial uses for the water body pertinent to either the non-point activity or point source permit in question, except as provided in section 39-3611, Idaho Code.

SECTION 3. That Section 39-3605, Idaho Code, be, and the same is hereby amended to read as follows:

39-3605. IDENTIFICATION OF REFERENCE STREAMS OR CONDITIONS. ~~The director shall, in a manner consistent with the public participation provisions set forth in this chapter and in accordance with chapter 52, title 67, Idaho Code, consultation with the appropriate basin advisory group, identify reference streams or conditions to assist in determining when whether the designated beneficial uses of water bodies within a basin are being fully supported. Streams or conditions shall be selected to represent the land types, land uses, hydrology, water uses and geophysical features of within the basins described in this chapter. Reference streams or conditions shall be representative of one (1) of the following:~~

(1) A stream or other water body reflecting natural conditions with few impacts from human activities and which is representative of the highest level of support attainable in the basin; or

(2) A stream or water body reflecting the minimum conditions necessary to fully support the designated beneficial uses of the stream or water body; or

(3) Physical, chemical and biological indicators identified in the rules of the department which reflect full support of designated beneficial uses.

SECTION 4. That Section 39-3606, Idaho Code, be, and the same is hereby amended to read as follows:

39-3606. MONITORING AND USE OF REFERENCE STREAMS OR CONDITIONS TO DETERMINE FULL SUPPORT OF BENEFICIAL USES AND BENEFICIAL USE SUPPORT ASSESSMENT. (1) The director, in consultation with the basin advisory group, shall conduct monitoring to determine if whether designated beneficial uses of water bodies are fully supported. In making such determinations, the director shall consult with the basin advisory group and the watershed advisory group with the responsibilities described in this chapter for the water body. The director shall use the appropriate water quality standards as identified in the rules of the department and shall compare the physical, chemical and biological measures of the water body in question with the reference stream or condition appropriate to the land type, land uses, hydrology, water uses and geophysical features of the water body in question as described in section 39-3605(2), Idaho Code. If the water body in question has such physical, chemical or biological measures as the reference water body stream or condition, even though such measures may be diminished from the conditions set forth in section 39-3605(1), Idaho Code, then the director shall deem the designated beneficial uses for the water in question body to be fully supported and as having achieved the objectives of the federal clean water act and of this chapter. When site-specific standards have been developed for an activity pursuant to the rules of the department, the use of reference streams as described in this section shall not be necessary.

(2) The physical, geological, hydrological, atmospheric, chemical or biological measures of a water body to be used to determine whether beneficial uses are fully supported may include, but are not limited to: stream width, stream depth, stream shade, sediment, bank stability, water flows, physical characteristics of the stream that affect habitat for fish, macroinvertebrate species or other aquatic life, and the variety and number of fish or other aquatic life.

SECTION 5. That Section 39-3607, Idaho Code, be, and the same is hereby amended to read as follows:

39-3607. MONITORING TO DETERMINE SUPPORT REVISIONS AND ATTAINABILITY OF BENEFICIAL USES. The director shall, in consultation with the appropriate basin advisory group and watershed advisory group, conduct a beneficial use attainability and status survey assessment to identify appropriate designated uses and to determine the status of designated beneficial uses in each water body. Measures to determine appropriate designated uses and the status of designated beneficial uses shall include appropriate water quality standards as identified in the rules of the department in conjunction with biological or aquatic habitat measures that may include, but are not limited to: stream width, stream depth, stream shade, sediment, bank stability, water flows, physical characteristics of the stream that affect habitat for fish, macroinvertebrate species or other aquatic life, and the variety and number of fish or other aquatic life determine whether beneficial uses should be revised. Designated uses shall be reviewed and revised

when such physical, geological, hydrological, atmospheric, chemical or biological measures indicate the need to do so. The director shall consider the economic costs required to attain a revised beneficial use. A designated use, that is not an existing use, shall be removed when it is demonstrated that attaining the use is not feasible, using those factors set forth in 40 CFR 131.10 (g).

Previous assessments of beneficial use attainability and status which that are of a quality and content acceptable to the director shall constitute the baseline data against which future assessments shall be made to determine changes in the water body and what beneficial uses can be attained in it. In addition, the director, to the extent possible, may determine whether changes in the condition of the water body are the result of past or ongoing point or nonpoint source activities. The director shall also seek information from appropriate public agencies regarding land uses, water uses and geological or other information for the watershed which that may affect water quality and the ability of the water body in question to fully support or attain designated beneficial uses. In carrying out the provisions of this section, the director may contract with private enterprises or public agencies to provide the desired data.

SECTION 6. That Section 39-3609, Idaho Code, be, and the same is hereby amended to read as follows:

39-3609. IDENTIFICATION OF WATER BODIES WHERE BENEFICIAL USES ARE NOT FULLY SUPPORTED. In accordance with the provisions set forth in the federal clean water act and the public participation provisions set forth in this chapter, after consultation with the appropriate basin advisory group and watershed advisory group, the director shall notify the appropriate public agencies of any water bodies in which the designated beneficial uses are not fully supported. For water bodies so identified, the director shall place such water bodies into one (1) of the following priority classifications for the development of total maximum daily load or equivalent processes:

(1) "High," wherein definitive and generally accepted water quality data indicate that unless remedial actions are taken in the near term there will be significant risk to designated or existing beneficial uses of a particular water body. The director, in establishing this category, shall consider public involvement as set forth in this chapter.

(2) "Medium," wherein water quality data indicate that unless remedial actions are taken there will be risks to designated or existing beneficial uses.

(3) "Low," wherein limited or subjective water quality data indicate designated uses are not fully supported, but that risks to human health, aquatic life, or the recreational, economic or aesthetic importance of a particular water body are minimal.

Approved April 11, 2013.

CHAPTER 349  
(H.B. No. 275)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1004, IDAHO CODE, TO PROVIDE THAT A DISTRICT MAY UTILIZE UP TO FIFTEEN PERCENT OF CERTAIN MONEYS TO PAY ANOTHER SCHOOL DISTRICT OR PUBLIC CHARTER SCHOOL FOR CERTAIN SERVICES OR TO DEFRAY CERTAIN COSTS, TO PROVIDE THAT A DISTRICT MAY EMPLOY FEWER POSITIONS THAN FUNDED WITHOUT A REDUCTION IN THE NUMBER OF FUNDED POSITIONS BEING IMPOSED, TO MAKE A CODIFIER'S CORRECTION AND TO MAKE

TECHNICAL CORRECTIONS; REPEALING SECTION 33-1004, IDAHO CODE, RELATING TO STAFF ALLOWANCE; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1004, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO DETERMINING A STAFF ALLOWANCE, TO ESTABLISH ADDITIONAL CONDITIONS GOVERNING STAFF ALLOWANCE AND TO PROVIDE FOR AN APPEAL AND A WAIVER; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. 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 subsection 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 five fifteen percent (15%) of the monies 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.

(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.

SECTION 2. That Section 33-1004, Idaho Code, be, and the same is hereby repealed.

SECTION 3. 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 33-1004, Idaho Code, and 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) 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) 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 five percent (5%) of the moneys associated with positions funded pursuant to subsection (2) of this section 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.

(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.

SECTION 4. The provisions of Section 1 of this act shall be in full force and effect on and after July 1, 2013. The provisions of sections 2 and 3 of this act shall be in full force and effect on and after July 1, 2014.

Approved April 11, 2013.

CHAPTER 350  
(H.B. No. 290)

AN ACT

RELATING TO WEIGHT LIMITATIONS FOR MOTOR VEHICLES; AMENDING SECTION 49-1011, IDAHO CODE, TO PROVIDE THAT VEHICLES OWNED AND OPERATED BY A FARMER OR HIS AGENT MAY BE OPERATED ON A HIGHWAY UP TO TWO THOUSAND POUNDS IN EXCESS OF ANY AXLE, BRIDGE OR GROSS VEHICLE WEIGHT LIMIT, TO PROVIDE EXCEPTIONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-1011, Idaho Code, be, and the same is hereby amended to read as follows:

49-1011. EXCEPTION TO WEIGHT AND SIZE LIMITATIONS. (1) If federal law permits the several states to establish size and weight limits in excess of those prescribed by in sections 49-1001 and 49-1010, Idaho Code, the board, as provided in subsection (2) of this section, may authorize the movement on highways under its jurisdiction of vehicles, motor vehicles, trailers and/or semitrailers, or combinations thereof, of a size or weight in excess of the limits prescribed in sections 49-1001 and 49-1010, Idaho Code, but within the limits necessary to qualify for federal-aid highway funds.

(2) The authority granted the board by the provisions of this section shall be exercised by adoption of rules or regulations pursuant to section 40-312, Idaho Code, or by issuance of permits pursuant to section 49-1004, Idaho Code, except that the maximum size and weight limits authorized by in this section apply.

(3) Vehicles owned and operated by a farmer or designated agents transporting agricultural products may be operated on any highway, except a highway that is part of the federal-aid interstate system, up to two thousand (2,000) pounds in excess of any axle, bridge or gross vehicle weight limit established in section 49-1001, Idaho Code, as determined by the vehicle operator. Such extra weight shall not apply to posted bridge weights or other seasonal or temporary weight limit postings.

Approved April 11, 2013.

CHAPTER 351  
(H.B. No. 322)

AN ACT

RELATING TO OVERWEIGHT OR OVERSIZE LOADS; AMENDING SECTION 49-1004A, IDAHO CODE, AS ADDED BY SECTION 1, SENATE BILL NO. 1117, AS ENACTED BY THE FIRST REGULAR SESSION OF THE SIXTY-SECOND IDAHO LEGISLATURE, TO PROVIDE FOR SPECIAL PERMITS FOR NEW DESIGNATED SPECIAL ROUTES, TO PROVIDE FOR THE ANALYSIS OF NEW SPECIAL ROUTES, TO PROVIDE AUTHORITY TO A LOCAL JURISDICTION AND TO PROVIDE CONDITIONS FOR A NOTICE AND HEARING.

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

SECTION 1. That Section 49-1004A, Idaho Code, as added by Section 1 of Senate Bill No. 1117, as enacted by the First Regular Session of the Sixty-second Idaho Legislature, be, and the same is hereby amended to read as follows:

49-1004A. PERMITS FOR OVERWEIGHT OR OVERSIZE LOADS -- NEW SPECIAL ROUTES. (1) Notwithstanding the provision on the addition or deletion of approved routes in section 49-1004(4), Idaho Code, the authority having jurisdiction may designate routes within its jurisdiction for operation of vehicle combinations with a legal maximum gross weight of at least one hundred five thousand five hundred one (105,501) pounds but not exceeding one hundred twenty-nine thousand (129,000) pounds, utilizing criteria established by the board based upon road and bridge structural integrity engineering standards, as well as public safety engineering standards. If the authority having jurisdiction designates routes as provided herein, its governing board shall issue an annual special permit authorizing travel on such designated routes for such travel. Any additional routes approved by the authority having jurisdiction shall be included in the map provided for in section 49-1004(4), Idaho Code.

(2) For all requests that new routes be designated for travel by vehicle combinations with a maximum gross weight of up to one hundred twenty-nine thousand (129,000) pounds, the department authority having jurisdiction shall, to the best of its ability, analyze the safety and feasibility of adding such routes and shall report its findings to the board. The Idaho department of commerce shall also assess economic development opportunities of such routes, utilizing available grant funding.

(3) Nothing in this section shall limit the exclusive jurisdiction of a local authority in its discretion to decline to designate, to revoke or modify an existing designation, or to place limits upon the designation of, highways within its jurisdiction that it determines hereunder to have public safety concerns or limited structural capacity of pavement, bridges or other appurtenances. Prior to designating or modifying a designation of a route under this section a local authority shall publish notice and conduct a public hearing concerning the proposed designation.

Approved April 11, 2013.



CHAPTER 352  
(H.B. No. 343)

AN ACT

RELATING TO ADMINISTRATIVE RULES; CONTINUING CERTAIN RULES IN FULL FORCE AND EFFECT UNTIL JULY 1, 2014; CONTINUING RULES APPROVED OR EXTENDED BY ADOPTION OF A CONCURRENT RESOLUTION OF THE FIRST REGULAR SESSION OF THE SIXTY-SECOND IDAHO LEGISLATURE IN FULL FORCE AND EFFECT UNTIL JULY 1, 2014, OR UNTIL SUCH TIME AS THEY SHALL EXPIRE; PROVIDING THAT RULES REJECTED BY CONCURRENT RESOLUTION SHALL BE NULL, VOID AND OF NO FORCE AND EFFECT; AUTHORIZING AGENCIES TO AMEND OR REPEAL CERTAIN RULES PURSUANT TO THE ADMINISTRATIVE PROCEDURE ACT AND DECLARING THE EFFECT OF THIS ACT UPON ADMINISTRATIVE RULES; AND PROVIDING SEVERABILITY.

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

SECTION 1. Except as provided in Sections 2, 3 and 4 of this act, every rule, as that term is defined in Section 67-5201, Idaho Code, that would expire on July 1, 2013, pursuant to the provisions of subsections (1) and (2) of Section 67-5292, Idaho Code, shall continue in full force and effect until July 1, 2014, at which time they shall expire as provided in Section 67-5292, Idaho Code.

SECTION 2. All rules, as that term is defined in Section 67-5201, Idaho Code, which have been affirmatively approved or extended by the adoption of a Concurrent Resolution by both the Senate and the House of Representatives in the First Regular Session of the Sixty-second Idaho Legislature shall continue in full force and effect in such approved or extended language until July 1, 2014, at which time they shall expire as provided in Section 67-5292, Idaho Code, or until such earlier time as provided in the rule or as otherwise provided by statute, unless further extended by statute.

SECTION 3. All rules, as that term is defined in Section 67-5201, Idaho Code, which have been rejected by the adoption of a Concurrent Resolution by both the Senate and the House of Representatives in the First Regular Session of the Sixty-second Idaho Legislature shall be null, void and of no force and effect as provided in Section 67-5291, Idaho Code.

SECTION 4. Nothing contained in this act shall be deemed to prohibit an agency, as that term is defined in Section 67-5201, Idaho Code, from amending or repealing rules which have been continued in full force and effect until July 1, 2014, pursuant to Sections 1 and 2 of this act, according to the procedures contained in Chapter 52, Title 67, Idaho Code, and subject to submission to the Legislature for approval. Nothing contained in this act shall endow any administrative rule continued in full force and effect under this act with any more legal stature than that of an administrative rule. Nothing contained in this act shall be deemed to be a legislative approval of any rule whose force and effect has been extended by this act, and nothing contained herein shall constitute a legislative finding that any of the rules whose force and effect have been extended hereunder are consistent with the legislative intent of the statute(s) pursuant to which they were promulgated.

SECTION 5. 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 April 11, 2013.

CHAPTER 353  
(S.B. No. 1040, As Amended)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-514, IDAHO CODE, TO REVISE A DATE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-515, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE ISSUANCE OF RENEWABLE CONTRACTS, TO REMOVE LANGUAGE RELATING TO NOTICE, TO REVISE PROVISIONS RELATING TO THE LENGTH OF A CERTAIN CONTRACT, TO ESTABLISH PROVISIONS RELATING TO RENEWALS FOR VARIOUS TERMS AND SALARIES OF CERTAIN CONTRACTS, TO PROVIDE THAT CERTAIN CONTRACTS SHALL BE ISSUED ON OR BEFORE A CERTAIN DATE, TO PROVIDE FOR LETTERS OF INTENT FOR EMPLOYMENT, TO ESTABLISH PROVISIONS RELATING TO CERTAIN CONTRACTS RENEWED FOR A TERM SHORTER IN LENGTH THAN STATED IN THE CURRENT STANDARD CONTRACT AND TO REMOVE LANGUAGE RELATING TO RENEWAL OF A CONTRACT AT A REDUCED SALARY; REPEALING SECTION 33-514, IDAHO CODE, RELATING TO ISSUANCE OF ANNUAL CONTRACTS, CATEGORIES OF CONTRACTS, OPTIONAL PLACEMENT AND WRITTEN EVALUATIONS; REPEALING SECTION 33-515, IDAHO CODE, RELATING TO ISSUANCE OF RENEWABLE CONTRACTS; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-514, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO THE ISSUANCE OF ANNUAL CONTRACTS, CATEGORIES OF CONTRACTS, OPTIONAL PLACEMENT AND WRITTEN EVALUATIONS; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-515, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO THE ISSUANCE OF RENEWABLE CONTRACTS; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 33-514, Idaho Code, be, and the same is hereby amended to read as follows:

33-514. ISSUANCE OF ANNUAL CONTRACTS -- SUPPORT PROGRAMS -- CATEGORIES OF CONTRACTS -- OPTIONAL PLACEMENT. (1) The board of trustees shall establish criteria and procedures for the supervision and evaluation of certificated employees who are not employed on a renewable contract, as provided for in section 33-515, Idaho Code.

(2) There shall be three (3) categories of annual contracts available to local school districts under which to employ certificated personnel:

(a) A category 1 contract is a limited one-year contract as provided in section 33-514A, Idaho Code.

(b) A category 2 contract is for certificated personnel in the first and second years of continuous employment with the same school district. Upon the decision by a local school board not to reemploy the person for the following year, the certificated employee shall be provided a written statement of reasons for non-reemployment by no later than May 25 the first day of July. No property rights shall attach to a category 2 contract and therefore the employee shall not be entitled to a review by the local board of the reasons or decision not to reemploy.

(c) A category 3 contract is for certificated personnel during the third year of continuous employment by the same school district. District procedures shall require at least one (1) evaluation prior to the beginning of the second semester of the school year and the results of any such evaluation shall be made a matter of record in the employee's personnel file. When any such employee's work is found to be unsatisfactory, a defined period of probation shall be established by the board, but in no case shall a probationary period be less than eight (8) weeks. After the probationary period, action shall be taken by the board as to whether the employee is to be retained, immediately

discharged, discharged upon termination of the current contract or reemployed at the end of the contract term under a continued probationary status. Notwithstanding the provisions of sections 67-2344 and 67-2345, Idaho Code, a decision to place certificated personnel on probationary status may be made in executive session and the employee shall not be named in the minutes of the meeting. A record of the decision shall be placed in the employee's personnel file. This procedure shall not preclude recognition of unsatisfactory work at a subsequent evaluation and the establishment of a reasonable period of probation. In all instances, the employee shall be duly notified in writing of the areas of work which are deficient, including the conditions of probation. Each such certificated employee on a category 3 contract shall be given notice, in writing, whether he or she will be reemployed for the next ensuing year. Such notice shall be given by the board of trustees no later than the ~~twenty-fifth day of May~~ first day of July of each such year. If the board of trustees has decided not to reemploy the certificated employee, then the notice must contain a statement of reasons for such decision and the employee shall, upon request, be given the opportunity for an informal review of such decision by the board of trustees. The parameters of an informal review shall be determined by the local board.

(3) School districts hiring an employee who has been on renewable contract status with another Idaho district, or has out-of-state experience which would otherwise qualify the certificated employee for renewable contract status in Idaho, shall have the option to immediately grant renewable contract status, or to place the employee on a category 3 annual contract. Such employment on a category 3 contract under the provisions of this subsection may be for one (1), two (2) or three (3) years.

(4) There shall be a minimum of two (2) written evaluations in each of the annual contract years of employment, and at least one (1) evaluation shall be completed before January 1 of each year. The provisions of this subsection ~~(4)~~ shall not apply to employees on a category 1 contract.

SECTION 2. 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, ~~having given notice of acceptance of renewal~~ 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) ~~After the third full year of employment and a~~ At least once annually, the performance of each such 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. ~~Except as otherwise provided, that person shall have the right to automatic renewal of contract by giving notice, in writing, of acceptance of renewal. Such notice shall be given to the board of trustees of the school district then employing such person not later than the first day of June preceding the expiration of the term of the current contract. Except as otherwise provided by this paragraph, the board of trustees shall notify each person entitled to be employed on a renewable contract of the requirement that such person must give the notice hereinabove and that failure to do so may be interpreted by the board~~

~~as a declination of the right to automatic renewal or the offer of another contract. Such notification shall be made, in writing, not later than the fifteenth day of May, in each year, except to those persons to whom the board, prior to said date, has sent proposed contracts for the next ensuing year, or to whom the board has given the notice required by this section.~~

(3) ~~Any contract automatically renewed under the provisions of this section shall be for the same length as the term stated in the current contract and at a salary no lower than that specified therein, to which shall be added such increments as may be determined by the statutory or regulatory rights of such employee by reason of training, service, or performance, except where a board of trustees has declared a financial emergency pursuant to section 33-522, Idaho Code 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 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, ~~or to renew the contract of any such person at a reduced salary,~~ 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, ~~or to renew the contract of any such person at a reduced salary,~~ 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 hear-

ing or such other time as may be agreed upon by the affected employees and the board of trustees.

(1) 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 ~~(7)~~ 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 3. That Sections 33-514 and 33-515, Idaho Code, be, and the same are hereby repealed.

SECTION 4. 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 33-514, Idaho Code, and to read as follows:

33-514. ISSUANCE OF ANNUAL CONTRACTS -- SUPPORT PROGRAMS -- CATEGORIES OF CONTRACTS -- OPTIONAL PLACEMENT. (1) The board of trustees shall establish criteria and procedures for the supervision and evaluation of certificated employees who are not employed on a renewable contract, as provided for in section 33-515, Idaho Code.

(2) There shall be three (3) categories of annual contracts available to local school districts under which to employ certificated personnel:

(a) A category 1 contract is a limited one-year contract as provided in section 33-514A, Idaho Code.

(b) A category 2 contract is for certificated personnel in the first and second years of continuous employment with the same school district. Upon the decision by a local school board not to reemploy the person for the following year, the certificated employee shall be provided a written statement of reasons for non-reemployment by no later than May 25. No property rights shall attach to a category 2 contract and therefore the employee shall not be entitled to a review by the local board of the reasons or decision not to reemploy.

(c) A category 3 contract is for certificated personnel during the third year of continuous employment by the same school district. District procedures shall require at least one (1) evaluation prior to the beginning of the second semester of the school year and the results of any such evaluation shall be made a matter of record in the employee's personnel file. When any such employee's work is found to be unsatisfactory a defined period of probation shall be established by the board, but in no case shall a probationary period be less than eight (8) weeks. After the probationary period, action shall be taken by the board as to whether the employee is to be retained, immediately discharged, discharged upon termination of the current contract or reemployed at

the end of the contract term under a continued probationary status. Notwithstanding the provisions of sections 67-2344 and 67-2345, Idaho Code, a decision to place certificated personnel on probationary status may be made in executive session and the employee shall not be named in the minutes of the meeting. A record of the decision shall be placed in the employee's personnel file. This procedure shall not preclude recognition of unsatisfactory work at a subsequent evaluation and the establishment of a reasonable period of probation. In all instances, the employee shall be duly notified in writing of the areas of work which are deficient, including the conditions of probation. Each such certificated employee on a category 3 contract shall be given notice, in writing, whether he or she will be reemployed for the next ensuing year. Such notice shall be given by the board of trustees no later than the twenty-fifth day of May of each such year. If the board of trustees has decided not to reemploy the certificated employee, then the notice must contain a statement of reasons for such decision and the employee shall, upon request, be given the opportunity for an informal review of such decision by the board of trustees. The parameters of an informal review shall be determined by the local board.

(3) School districts hiring an employee who has been on renewable contract status with another Idaho district or has out-of-state experience which would otherwise qualify the certificated employee for renewable contract status in Idaho, shall have the option to immediately grant renewable contract status, or to place the employee on a category 3 annual contract. Such employment on a category 3 contract under the provisions of this subsection may be for one (1), two (2) or three (3) years.

(4) There shall be a minimum of two (2) written evaluations in each of the annual contract years of employment, and at least one (1) evaluation shall be completed before January 1 of each year. The provisions of this subsection (4) shall not apply to employees on a category 1 contract.

SECTION 5. 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 33-515, Idaho Code, and 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, having given notice of acceptance of renewal and upon signing a contract for a fourth full year, be placed on a renewable contract status with said school district subject to the provisions included in this chapter.

(2) After the third full year of employment and at least once annually, the performance of each such 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. Except as otherwise provided, that person shall have the right to automatic renewal of contract by giving notice, in writing, of acceptance of renewal. Such notice shall be given to the board of trustees of the school district then employing such person not later than the first day of June preceding the expiration of the term of the current contract. Except as otherwise provided by this paragraph, the board of trustees shall notify each person entitled to be employed on a renewable contract of the requirement that such person must give the notice hereinabove and that failure to do so may be interpreted by the board as a declination of the right to automatic renewal or the offer of another contract. Such notification shall be made, in writing, not later than the

fifteenth day of May, in each year, except to those persons to whom the board, prior to said date, has sent proposed contracts for the next ensuing year, or to whom the board has given the notice required by this section.

(3) Any contract automatically renewed under the provisions of this section shall be for the same length as the term stated in the current contract and at a salary no lower than that specified therein, to which shall be added such increments as may be determined by the statutory or regulatory rights of such employee by reason of training, service, or performance, except where a board of trustees has declared a financial emergency pursuant to section 33-522, Idaho Code.

(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, or to renew the contract of any such person at a reduced salary, 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, or to renew the contract of any such person at a reduced salary, 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 (7) 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.

**SECTION 6. 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 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, 2014.

Approved April 16, 2013.

CHAPTER 354

(S.B. No. 1072, As Amended, As Amended in the House)

AN ACT

RELATING TO ORGAN DONATION CONTRIBUTION FUND; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2447, IDAHO CODE, TO CREATE THE ORGAN DONATION CONTRIBUTION FUND, TO PROVIDE FOR DUTIES OF THE IDAHO TRANSPORTATION DEPARTMENT IN ADMINISTRATION OF THE FUND AND TO IDENTIFY THE RECIPIENT OF MONEYS FROM THE FUND; AMENDING SECTION 49-306, IDAHO CODE, TO AUTHORIZE VOLUNTARY CONTRIBUTIONS TO THE ORGAN DONATION CONTRIBUTION FUND BY PERSONS APPLYING FOR OR RENEWING A DRIVER'S LICENSE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-402, IDAHO CODE, TO AUTHORIZE VOLUNTARY CONTRIBUTIONS TO THE ORGAN DONATION CONTRIBUTION FUND BY PERSONS APPLYING FOR OR RENEWING MOTOR VEHICLE REGISTRATION; AMENDING SECTION 49-401B, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 67-4223A, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 24, 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 49-2447, Idaho Code, and to read as follows:

49-2447. ORGAN DONATION CONTRIBUTION FUND. (1) There is hereby created in the state treasury the organ donation contribution fund, the moneys of which shall be continuously appropriated.

(2) The Idaho transportation department through the division of motor vehicles shall:

(a) Administer the moneys deposited in the organ donation contribution fund;

(b) Distribute moneys in accordance with subsection (5) of this section;

(c) Make an annual report to the house of representatives and senate health and welfare committees on revenue collected for the fund and contributions made to the fund; and

(d) Promulgate rules for the distribution of moneys from the fund that are consistent with the purposes of this section.

(3) The organ donation contribution fund shall consist of:

(a) Private contributions;

(b) Donations or grants from public or private entities;

(c) Voluntary donations collected under sections 49-306(2) and 49-402(7), Idaho Code; and

(d) Any other moneys approved for the fund by law.

(4) Idle moneys in the fund shall be invested by the treasurer per section 67-1210, Idaho Code, and moneys earned from such investment shall be credited to the fund.

(5) The moneys in the organ donation contribution fund shall be distributed to intermountain donor services located in Salt Lake City, Utah,

and shall be used to assist in maintaining and operating a statewide organ donation registry and provide organ donor awareness education in Idaho.

SECTION 2. That Section 49-306, Idaho Code, be, and the same is hereby amended to read as follows:

49-306. APPLICATION FOR DRIVER'S LICENSE, INSTRUCTION PERMIT, OR RESTRICTED SCHOOL ATTENDANCE DRIVING PERMIT. (1) Every application for any instruction permit, restricted school attendance driving permit, or for a driver's license shall be made upon a form furnished by the department and shall be verified by the applicant before a person authorized to administer oaths. Officers and employees of the department and sheriffs and their deputies are authorized to administer the oaths without charge. Every application for a permit, extension or driver's license shall be accompanied by the following fee, none of which is refundable:

(a) Class A, B, C (4-year) license with endorsements -- age 21 years and older .....	\$40.00
(b) Class A, B, C (3-year) license with endorsements -- age 18 to 21 years .....	\$30.00
(c) Class A, B, C (1-year) license with endorsements -- age 20 years .....	\$15.00
(d) Class D (3-year) license -- under age 18 years .....	\$25.00
(e) Class D (3-year) license -- age 18 to 21 years .....	\$25.00
(f) Class D (1-year) license -- age 17 years or age 20 years ....	\$15.00
(g) Four-year Class D license -- age 21 years and older .....	\$30.00
(h) Eight-year Class D license -- age 21 to 63 years .....	\$55.00
(i) Class A, B, C instruction permit .....	\$29.00
(j) Class D instruction permit or supervised instruction permit .....	\$15.00
(k) Duplicate driver's license or permit issued under section 49-318, Idaho Code .....	\$15.00
(l) Driver's license extension issued under section 49-319, Idaho Code .....	\$10.00
(m) License classification change (upgrade) .....	\$25.00
(n) Endorsement addition .....	\$15.00
(o) Class A, B, C skills tests not more than .....	\$70.00
(p) Class D skills test .....	\$24.00
(q) Motorcycle endorsement skills test .....	\$10.00
(r) Knowledge test .....	\$ 3.00
(s) Seasonal driver's license .....	\$39.00
(t) One time motorcycle "M" endorsement .....	\$15.00
(u) Motorcycle endorsement instruction permit .....	\$15.00
(v) Restricted driving permit or restricted school attendance driving permit .....	\$60.00

(2) A person who applies for a driver's license or a driver's license 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 driver's license fee.

(3) Every application shall state the true and full name, date of birth, sex, declaration of Idaho residency, Idaho residence address and mailing address, if different, of the applicant, height, weight, hair color, and eye color, and the applicant's social security number as verified by the social security administration. If an applicant has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the applicant may state, in his or her application pursuant to this section, the applicant's alternative Idaho mailing address in place of his or her Idaho residence address and mailing address.

(a) The requirement that an applicant provide a social security number as verified by the social security administration shall apply only to applicants who have been assigned a social security number.

(b) An applicant who has not been assigned a social security number shall:

(i) Present written verification from the social security administration that the applicant has not been assigned a social security number; and

(ii) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and

(iii) Submit such proof as the department may require that the applicant is lawfully present in the United States.

A driver's license or any instruction permit issued on and after January 1, 1993, shall not contain an applicant's social security number. Applications on file shall be exempt from disclosure except as provided in sections 49-202, 49-203, 49-203A and 49-204, Idaho Code.

(c) Every application for a class A, B or C license shall state where the applicant has been licensed for the preceding ten (10) years and under which of the following driving categories the applicant will operate:

(i) Non-excepted Interstate. The applicant operates or expects to operate in interstate commerce, and is required to provide a medical examiner's certificate;

(ii) Excepted Interstate. The applicant operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted by the federal motor carrier safety administration from all or parts of the qualification requirements of federal motor carrier safety regulation 49, part 391, and is therefore not required to provide a medical examiner's certificate;

(iii) Non-excepted Intrastate. The applicant operates only in intrastate commerce and is subject to and meets all Idaho driver qualification requirements and the applicable parts of federal motor carrier safety regulation 49, part 391, and is required to provide a medical examiner's certificate; or

(iv) Excepted Intrastate. The applicant operates in intrastate commerce, but engages exclusively in exempted transportation or operations as listed in section 67-2901B(2), Idaho Code, and the applicable parts of federal motor carrier safety regulation 49, part 391, and is therefore not required to provide a medical examiner's certificate.

All applications shall also state whether the applicant has previously been licensed as a driver, and if so, when and by what state or country, and whether a driver's license or privileges have ever been suspended, revoked, denied, disqualified, canceled or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, denial, disqualification, cancellation or refusal and the applicant's oath that all information is correct as signified by the applicant's signature.

The applicant must submit proof of identity acceptable to the examiner or the department and date of birth as set forth in a certified copy of his birth certificate. When a certified copy of his birth certificate or a delayed birth certificate is impossible to obtain from a vital statistics agency, another government issued document may be submitted that provides satisfactory evidence of a person's full legal name and date of birth acceptable to the examiner or the department.

(d) Individuals required to register in compliance with section 3 of the federal military selective service act, 50 U.S.C. App. 451 et seq., as amended, shall be provided an opportunity to fulfill such registra-

tion requirements in conjunction with an application for a driver's license or instruction permit. Any registration information so supplied shall be transmitted by the department to the selective service system.

(34) Whenever an application is received from a person previously licensed in another jurisdiction, the department shall request a copy of the driver's record from the other jurisdiction and shall contact the national driver register. When received, the driver's record from the previous jurisdiction shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(45) Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

(56) The department shall contact and notify the commercial driver license information system of the proposed application for a class A, B or C driver's license to ensure identification of the person and to obtain clearance to issue the license.

(67) When the fees required under this section are collected by a county officer, they shall be paid over to the county treasurer not less often than monthly, who shall immediately:

(a) Deposit an amount equal to five dollars (\$5.00) from each driver's license except an eight-year class D license, or any class D instruction permit application fees, application for a duplicate driver's license or permit, classification change, seasonal driver's license and additional endorsement, and ten dollars (\$10.00) from each eight-year class D driver's license, in the current expense fund; and

(b) Deposit two dollars and fifty cents (\$2.50) from each motorcycle endorsement and motorcycle endorsement instruction permit fee in the current expense fund; and

(c) Deposit an amount equal to three dollars (\$3.00) from each fee for a knowledge test in the current expense fund; and

(d) Deposit an amount equal to ten dollars (\$10.00) from each fee for a motorcycle endorsement skills test in the current expense fund; provided however, if a contractor administers the skills test he shall be entitled to the ten dollar (\$10.00) fee; and

(e) Remit the remainder to the state treasurer; and

(f) Deposit seventeen dollars and fifty cents (\$17.50) from each fee for a class D skills test into the county current expense fund, unless the test is administered by a department-approved contractor, in which case the contractor shall be entitled to seventeen dollars and fifty cents (\$17.50) of each fee.

(78) When the fees required under this section are collected by a state officer or agency, they shall be paid over to the state treasurer.

(89) The state treasurer shall distribute the moneys received from fees imposed by the provisions of this section, whether collected by a county officer or by a state officer or agency as follows:

(a) Two dollars (\$2.00) of each fee for a four-year driver's license or seasonal driver's license, and four dollars (\$4.00) of each fee for an eight-year class D driver's license, and one dollar and fifty cents (\$1.50) of each fee charged for driver's licenses pursuant to subsections (1) (b), (d) and (e) of this section, and fifty cents (50¢) of each fee charged for driver's licenses pursuant to subsections (1) (c) and (f) of this section, shall be deposited in the emergency medical services fund II created in section 56-1018A, Idaho Code, and four dollars (\$4.00) of each fee charged pursuant to subsections (1) (a), (g) and (s) of this section and eight dollars (\$8.00) of each fee charged pursuant to subsection (1) (h) of this section and three dollars (\$3.00) of each fee for driver's licenses pursuant to subsections (1) (b), (d) and (e) of this section, and one dollar (\$1.00) of each fee charged for driver's

licenses pursuant to subsections (1) (c) and (f) of this section shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code; and

(b) Twenty-eight dollars (\$28.00) of each fee for a seasonal or class A, B or C driver's license, and nineteen dollars and fifty cents (\$19.50) of each fee charged for a license pursuant to subsection (1) (b) of this section, and eight dollars and sixteen cents (\$8.16) of each fee charged for a license pursuant to subsection (1) (c) of this section shall be deposited in the state highway account; and

(c) Twenty dollars (\$20.00) of each fee for a class A, B or C instruction permit or driver's license classification change shall be deposited in the state highway account; and

(d) Four dollars (\$4.00) of each fee for a class A, B or C instruction permit shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code; and

(e) Ten dollars (\$10.00) of each fee for a duplicate seasonal or class A, B or C driver's license, class A, B or C driver's license extension, or additional endorsement shall be deposited in the state highway account; and

(f) Seven dollars and fifty cents (\$7.50) of each fee for a motorcycle endorsement and motorcycle endorsement instruction permit shall be deposited in the state highway account; and

(g) Five dollars and thirty cents (\$5.30) of each fee for a four-year class D driver's license, and ten dollars and sixty cents (\$10.60) of each fee for an eight-year class D driver's license, and four dollars (\$4.00) of each fee charged for a license pursuant to subsections (1) (d) and (e) of this section, and one dollar and thirty-three cents (\$1.33) of each fee charged for a license pursuant to subsection (1) (f) of this section shall be deposited in the driver training fund; and

(h) Twelve dollars and seventy cents (\$12.70) of each fee for a four-year class D driver's license, and twenty dollars and forty cents (\$20.40) of each fee for an eight-year class D driver's license, and ten dollars and fifty cents (\$10.50) of each fee charged for a license pursuant to subsections (1) (d) and (e) of this section, and six dollars and eighty-three cents (\$6.83) of each fee charged for a license pursuant to subsection (1) (f) of this section shall be deposited in the highway distribution fund; and

(i) Two dollars and sixty cents (\$2.60) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the driver training fund; and

(j) Seven dollars and forty cents (\$7.40) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the highway distribution fund; and

(k) Ten dollars (\$10.00) of each fee for a class A, B or C skills test shall be deposited in the state highway account; and

(l) One dollar (\$1.00) of each fee for a class A, B, C or four-year D driver's license, and two dollars (\$2.00) of each fee for an eight-year class D driver's license, and one dollar (\$1.00) of each fee charged for a license pursuant to subsections (1) (b), (d) and (e) of this section, and thirty-four cents (34¢) of each fee charged for a license pursuant to subsections (1) (c) and (f) of this section shall be deposited in the motorcycle safety program fund established in section 33-4904, Idaho Code; and

(m) Six dollars and fifty cents (\$6.50) of each fee for a class D skills test shall be deposited into the state highway account; and

(n) Each voluntary contribution of two dollars (\$2.00) as described in subsection (2) of this section, less actual administrative costs associated with collecting and transferring such contributions, shall be

deposited into the organ donation contribution fund created in section 49-2447, Idaho Code.

(910) The contractor administering a class A, B or C skills test shall be entitled to not more than sixty dollars (\$60.00) of the skills test fee. A contractor administering a class A, B or C skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.

(101) Sixty dollars (\$60.00) of each restricted driving permit and each restricted school attendance driving permit shall be deposited in the state highway account.

(112) The department may issue seasonal class B or C driver's licenses to drivers who are employees of agri-chemical businesses, custom harvesters, farm retail outlets and suppliers, and livestock feeders that:

- (a) Will only be valid for driving commercial vehicles that normally require class B or C commercial driver's licenses;
- (b) Will be valid for seasonal periods that begin on the date of issuance and that are not to exceed one hundred eighty (180) days in a twelve (12) month period;
- (c) May only be obtained twice in a driver's lifetime;
- (d) Are valid only within a one hundred fifty (150) mile radius of the place of business or farm being serviced; and
- (e) Will be valid only in conjunction with valid Idaho class D driver's licenses.

(123) The department may issue seasonal class B or C driver's licenses to drivers who:

- (a) Have not violated the single license provisions of applicable federal regulations;
- (b) Have not had any license suspensions, revocations or cancellations;
- (c) Have not had any convictions in any vehicle for any offense listed in section 49-335(1) or (2), Idaho Code, or any one (1) serious traffic offense;
- (d) Have at least one (1) year of driving experience with a class D or equivalent license in any type motor vehicle; and
- (e) Are at least sixteen (16) years old.

SECTION 3. 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 plate system of Idaho 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).

(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).

(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 issued on an annual basis by the department.

(89) 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. The wrecker plate shall be issued on an annual basis by the department.

(910) 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. 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.

(101) 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.

(112) 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. Registrants 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 4. 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 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(1~~1~~2), 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(1~~1~~2), 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 5. 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(1~~1~~2), 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.

SECTION 6. Section 2 of this act shall be in full force and effect on and after July 1, 2014, or when the Director of the Idaho Transportation Department submits to the Secretary of State in writing that the Idaho Transportation Department's information technology system has been updated to support the Organ Donation Contribution Fund, whichever date is later.

Law without signature.

# HOUSE JOINT MEMORIAL

(H.J.M. No. 1)

## A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES, TO THE SECRETARY OF THE UNITED STATES DEPARTMENT OF AGRICULTURE AND TO THE CHIEF OF THE UNITED STATES FOREST SERVICE.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Sixty-second Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the State of Idaho and the vast Frank Church-River of No Return Wilderness and contiguous national forests have suffered numerous and frequent large destructive forest and range fires, most recently in 2012; and

WHEREAS, the fires have not only incrementally expanded the total burned acreage but have also reburned huge areas one or more times; and

WHEREAS, the cumulative effect of numerous large fires has resulted in tremendous damage and destruction to the watersheds, streams important to the recovery of anadromous fish, wildlife habitat, scenic values, recreational use, loss of native plant species, historic structures, public access and safety, air quality and public health, the trail network and other values and benefits for which the national forests and wilderness were established; and

WHEREAS, the cumulative and growing loss of wilderness values and attributes is also resulting in serious economic impact to surrounding communities, counties, the State of Idaho and the businesses dependent upon the natural resources inherent in wilderness and the national forests; and

WHEREAS, hundreds of miles of trails have been severely damaged, blocked, rendered unsafe for travel or simply wiped out by fire, and the continuing destructive aftermath of blowdown, washouts and landslides have not been opened, cleared, repaired or replaced. The backlog of critical restoration work is rapidly growing each year and far exceeds the work performed annually; and

WHEREAS, the cumulative impact of fires has resulted in the loss of soil and native vegetation and the replacement of native species with noxious and undesirable plants that will also prevent or retard reestablishment of desirable native plants; and

WHEREAS, the United States Forest Service has underestimated the huge cost of trail and resource restoration when making decisions on active fire strategies in the wilderness due to a decision bias toward minimizing suppression expenditures for wilderness fires at the expense of long-term restoration; and

WHEREAS, the United States Forest Service has not placed the necessary emphasis and priority on restoration of proper watershed and vegetative conditions within the wilderness, and has also not considered the negative effect of vegetative type conversion resulting from intense and/or repetitive burns; and

WHEREAS, the United States Forest Service has not placed emphasis and priority on training for forest supervisors, rangers and staff on the importance of safe and effective saddle and pack stock use and management, and the field conditions necessary for reasonable and safe public and employee access to and within the wilderness; and

WHEREAS, the United States Forest Service has not placed emphasis and priority on eliminating barriers to effective and streamlined contracting procedures and effective use of volunteers in order to respond to the crisis in the wilderness and maximize fieldwork accomplishment; and

WHEREAS, the Secretary of Agriculture and the Chief of the United States Forest Service have not placed the necessary emphasis and priority of the requirement of Section 5(b) of the Central Idaho Wilderness Act to clear obstructions from all trails within and adjacent to the wilderness on at least an annual basis; and

WHEREAS, the Chief of the United States Forest Service has not programmed on a continuing basis even normal repair, replacement and maintenance of the trail system and trail structures such as bridges, trail tread, drainage, associated signing and other essential actions to enable safe public use, full and unimpeded public access by foot and horseback and the public services that are vital to public use and enjoyment of the wilderness, in order to prevent cumulative deterioration of the system under even non-fire conditions; and

WHEREAS, the Chief of the United States Forest Service has not placed emphasis on efficient and economical methods of trail restoration and maintenance, and has in fact aggressively limited methods and tools by Forest Service crews, contractors and volunteers that would greatly increase accomplishment and lower costs without adverse effect on wilderness values or visitors; and

WHEREAS, use of outfitter and guide permittees, contractors and volunteers from various organizations to accomplish trail work is well below potential due to a lack of emphasis by the United States Forest Service on using innovative ways to offset permittee fees and streamline and simplify contracting procedures.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge the Secretary of the United States Department of Agriculture to declare the Frank Church-River of No Return Wilderness and adjacent national forest lands to be a Natural Resources Disaster Area.

BE IT FURTHER RESOLVED that we urge the Secretary of Agriculture and the Chief of the United States Forest Service to recognize the dire conditions prevailing within and adjacent to the Frank Church-River of No Return Wilderness and adjacent national forests, and further urge that the necessary priorities and emphasis be placed on prompt and practical actions to prevent further cumulative loss of the unique values of the wilderness.

BE IT FURTHER RESOLVED that we urge compliance with the specific requirements of the Central Idaho Wilderness Act mandating annual clearing of obstructions from the trail system.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, the congressional delegation representing the State of Idaho in the Congress of the United States, the Secretary of the United

States Department of Agriculture and the Chief of the United States Forest Service.

Adopted by the House March 4, 2013

Adopted by the Senate March 13, 2013

# SENATE CONCURRENT RESOLUTIONS

(S.C.R. No. 101)

## A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND RECOGNIZING POWER COUNTY ON ITS 100TH ANNIVERSARY.

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

WHEREAS, Power County is a county in southeastern Idaho that was given the name because of its hydroelectric development; and

WHEREAS, the county seat of Power County is American Falls, the first settlement in the county; and

WHEREAS, the American Falls Dam was completed in 1927 and created a 56,200 acre reservoir providing irrigation and recreation water; and

WHEREAS, the first settlers to Power County were cattle and sheep ranchers, and Mormon pioneers and German-Russian immigrants homesteaded the land; and

WHEREAS, crops produced in Power County include wheat, barley, corn, sugar beets, oilseeds and Idaho's world famous potatoes; and

WHEREAS, Power County is now the crossroads for the western transmission corridor, the north-south gas, oil and natural gas pipeline and holds the Union Pacific Railroad's mainline to the west coast; and

WHEREAS, Power County is home to the ConAgra Foods potato processing plant, the J.R. Simplot Company fertilizer plant as well as Idaho Power's electrical generation facility; and

WHEREAS, Power County is situated in the heart of the Snake River Plain and offers some of the best trout fishing in Idaho; and

WHEREAS, Power County is well known for its seasonal duck and goose hunting; and

WHEREAS, January 30, 2013, is the 100th anniversary of the founding of Power County by the Idaho Legislature, and February 17, 2013, is the 100th anniversary of the first meeting of Power County commissioners.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that the rich history and achievements of Power County be recognized in this year of its 100th anniversary.

Adopted by the Senate February 8, 2013

Adopted by the House February 12, 2013

(S.C.R. No. 102)

## A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND URGING THE REPUBLIC OF TURKEY AND THE TURKISH PATENT INSTITUTE TO HONOR IDAHO'S OPPOSITION AND DENY THE REQUEST FOR REGISTRATION OF APPLICANT BETA ZIRAAT VE TICARET A.S. TO CLAIM THE MARK "IDAHO" FOR USE IN IDENTIFICATION OF PRODUCTS NOT ORIGINATING IN THE STATE OF IDAHO.

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

WHEREAS, Idaho highly values its rich agricultural history; and

WHEREAS, it is the policy of the State of Idaho to protect the identity of its agricultural products as originating in Idaho; and

WHEREAS, only agricultural products from Idaho should be registered or referred to with Idaho's state name; and

WHEREAS, the First Regular Session of the Sixty-first Idaho Legislature, through Senate Resolution 102, recognized that the Republic of Turkey and the United States of America are long-standing allies and that Turkey is a valued trading partner with the State of Idaho and resolved to develop and enhance further long-standing Idaho-Turkey relations, building upon time-honored friendships, as well as promoting the cultural, educational, academic, political and economic relations between Idahoans and the Turkish people; and

WHEREAS, it has come to the attention of the Idaho Potato Commission through the Worldwide Watch services of Thomson Reuters that on March 16, 2012, as published on November 12, 2012, a Turkish company known as applicant "Beta Ziraat Ve Ticaret A.S.," the English translation being Beta Agriculture and Trade Company, filed for registration of the selected mark "IDAHO" for International Class 31, filing number 201224978, with the Turkish Patent Institute; and

WHEREAS, International Class 31 includes, inter alia, agricultural products, horticultural products and seeds, live animals, eggs, live and dried plant and weed and malt; and

WHEREAS, if the applicant is allowed to register the mark "IDAHO," it is highly likely that there will be consumer confusion in that purchasers will assume that products, over which Idaho will have no quality standards control whatsoever, originated in Idaho and that if such products are of low quality or contaminated, the purchaser will avoid Idaho labeled products as a result, including products legitimately originating in the State of Idaho; and

WHEREAS, an attorney has been retained in Turkey to oppose the request, and the deadline for all opposition papers is February 12, 2013; and

WHEREAS, it is critical for the Legislature of the State of Idaho to voice opposition to the filing so the opposition can be included in materials filed with the Turkish Patent Institute; and

WHEREAS, Idaho values all Idaho agricultural products and takes pride in the high quality of the products that are sold worldwide and the use of Idaho's name in any product not originating in the State of Idaho will have the effect of diminishing the recognition and value of Idaho products in commerce and diluting the value of the Idaho brand.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge the Republic of Turkey and the Turkish Patent Institute to honor Idaho's opposition and deny the request for registration of applicant Beta Ziraat Ve Ticaret A.S. to claim the mark "IDAHO" for use in identification of products not originating in the State of Idaho.

BE IT FURTHER RESOLVED that we urge the Governor of the State of Idaho to review the matter and take all necessary steps to oppose the application for



registration of the mark "IDAHO" for use in identification of products not originating in the State of Idaho.

BE IT FURTHER RESOLVED that an official copy of this resolution be distributed to the Republic of Turkey, the Turkish Patent Institute and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 7, 2013

Adopted by the House February 8, 2013

(S.C.R. No. 103)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND ENCOURAGING THE IDAHO DEPARTMENT OF COMMERCE IN COLLABORATION WITH THE UNIVERSITY OF IDAHO, BOISE STATE UNIVERSITY, IDAHO STATE UNIVERSITY, THE COLLEGE OF WESTERN IDAHO AND OTHER STAKEHOLDERS, TO COORDINATE COMMENTS AND IDENTIFY A LEAD ENTITY TO PREPARE A PROPOSAL, ON BEHALF OF THE STATE, FOR IDAHO TO BE SELECTED AS ONE OF THE FEDERAL AVIATION ADMINISTRATION'S SIX UNMANNED AIRCRAFT SYSTEM TEST SITES.

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

WHEREAS, the Federal Aviation Administration Modernization and Reform Act of 2012 and the National Defense Authorization Act for fiscal year 2012 require the Federal Aviation Administration (FAA) to establish six unmanned aircraft system test sites; and

WHEREAS, this effort will provide critical data necessary for establishing flight operations, certification standards, regulatory standards and air traffic requirements to ensure safe operations for public and private unmanned aircraft systems; and

WHEREAS, the Federal Aviation Administration has recently initiated a search for the six unmanned aircraft system test sites in the United States; and

WHEREAS, the Federal Aviation Administration will solicit public comments for purposes of refining test site requirements, designation standards and oversight activities and that the FAA will issue a request for proposals to develop unmanned aircraft system test sites; and

WHEREAS, Idaho is uniquely positioned with the Idaho National Laboratory and its 890 square mile critical infrastructure test range, its Center for Advanced Modeling and Simulation and its Center for Advanced Energy Studies, which already house significant scientific resources that may be utilized for the test site; and

WHEREAS, the selection of Idaho as a national unmanned aircraft system test site would establish the state as a nationally recognized center of excellence for the development and testing of advanced aviation technologies, create high-paying jobs in the state and generate new streams of revenue into the state; and

WHEREAS, a test site selection could have tremendous economic impact on Idaho, with direct and indirect benefits for the real estate and construction sectors, business investment, tourism, education, regional industry and arts and recreation.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Director of the Idaho Department of Commerce, in consultation with officials from the University of Idaho, Boise State University, Idaho State University and the College of Western Idaho, is requested to coordinate comments from interested parties and identify a lead entity to prepare a proposal, on behalf of the State of Idaho to

the Federal Aviation Administration, for Idaho to be selected as an unmanned aircraft system test site.

Adopted by the Senate February 6, 2013

Adopted by the House April 4, 2013

(S.C.R. No. 104)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND REAFFIRMING THE STATE OF IDAHO'S COMMITMENT TO THE STRONG AND DEEPENING RELATIONSHIP BETWEEN THE STATE OF IDAHO AND TAIWAN AND ENCOURAGING ONGOING PARTICIPATION IN ORGANIZATIONS THAT IMPROVE PUBLIC SAFETY, HEALTH AND TRADE.

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

WHEREAS, the Republic of China (Taiwan), the United States, and in particular the State of Idaho share a historical and close relationship marked by strong bilateral trade, educational and cultural exchange, scientific and technological interest and tourism; and

WHEREAS, the Republic of China was the first republic in Asia and the first full-fledged democracy in Chinese history and shares with the United States and the State of Idaho the common values of freedom, democracy, human rights and rule of law; and

WHEREAS, the United States ranks as Taiwan's third largest trading partner, and Taiwan is the ninth largest trading partner of the United States and the bilateral trade reached 67.2 billion United States dollars in 2011; and

WHEREAS, the State of Idaho and Taiwan have enjoyed a long and mutually beneficial relationship with the prospect of further growth, and Taiwan was Idaho's second largest export destination in 2011 with 761 million United States dollars worth of Idaho goods shipped to Taiwan, including semiconductors, computers and capital equipment, food and agriculture, wood and building materials; and

WHEREAS, the United States on November 1, 2012, officially included Taiwan in its Visa Waiver Program (VWP), allowing Taiwan's citizens to travel to the United States for tourism or business for stays of 90 days or less without being required to obtain a visa. The VWP is expected to increase tourism and business between Taiwan and the United States, particularly Idaho, with the prospect of 30%-40% growth of Taiwanese travelers to the United States (400,000 in 2013); and

WHEREAS, the issue of United States beef export to Taiwan has been settled; and

WHEREAS, the State of Idaho and the Province of Taiwan have enjoyed their relationship since 1984; and

WHEREAS, President Ma Ying-jeou has worked tirelessly to uphold democratic principles in Taiwan, ensure the prosperity of Taiwan's 23 million citizens, promote Taiwan's international standing as a responsible member of the international community, increase participation in international organizations, dispatch humanitarian missions abroad and further improve relations between the United States and Taiwan; and

WHEREAS, Taiwan, as a willing and contributing member of the world community, has made countless contributions of technical and financial assistance in the wake of Hurricane Sandy and other natural disasters worldwide.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that the State of Idaho reaffirms its commitment to the strong and deepening relationship between the State of Idaho

and Taiwan and encourages ongoing participation in organizations that improve public safety, health and trade.

Adopted by the Senate February 12, 2013

Adopted by the House March 5, 2013

(S.C.R. No. 105)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE IDAHO BOARD OF TAX APPEALS RELATING TO IDAHO BOARD OF TAX APPEALS RULES.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Idaho Board of Tax Appeals relating to Idaho Board of Tax Appeals Rules are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 36.01.01, Idaho Board of Tax Appeals Rules, Section 63, Section 65 and Section 140, Subsection 06, only, adopted as pending rules under Docket Number 36-0101-1201, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 12, 2013

Adopted by the House March 25, 2013

(S.C.R. No. 106)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE DOCKET OF THE IDAHO FISH AND GAME COMMISSION RELATING TO RULES GOVERNING LICENSING.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the Idaho Fish and Game Commission relating to Rules Governing Licensing is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 13.01.04, Idaho Fish and Game Commission, Rules Governing Licensing, adopted as a pending rule under Docket Number 13-0104-1202, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 12, 2013

Adopted by the House March 25, 2013

(S.C.R. No. 108)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE DOCKET OF THE IDAHO FISH AND GAME COMMISSION RELATING TO RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the Idaho Fish and Game Commission relating to Rules Governing the Taking of Big Game Animals in the State of Idaho is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 13.01.08, Idaho Fish and Game Commission, Rules Governing the Taking of Big Game Animals in the State of Idaho, adopted as a pending rule under Docket Number 13-0108-1205, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 12, 2013

Adopted by the House March 25, 2013

(S.C.R. No. 110)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE IDAHO FISH AND GAME COMMISSION RELATING TO RULES GOVERNING LICENSING.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Idaho Fish and Game Commission relating to Rules Governing Licensing is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 13.01.04, Idaho Fish and Game Commission, Rules Governing Licensing, Section 701, Subsection 02.c, only, adopted as a pending rule under Docket Number 13-0104-1201, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 12, 2013

Adopted by the House March 25, 2013

(S.C.R. No. 112)

A CONCURRENT RESOLUTION  
STATING FINDINGS OF THE LEGISLATURE AND AFFIRMING THE LEGISLATURE'S OPPOSITION TO THE LEGALIZATION OF MARIJUANA IN IDAHO.

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

WHEREAS, marijuana is classified as a Schedule I controlled substance under both state and federal law and has a negative impact on public health and safety; and

WHEREAS, the tetrahydrocannabinol (THC) content of marijuana has risen dramatically in the last 30 years, contributing to the fact that one out of six teenagers who start smoking marijuana will become addicted to it; and

WHEREAS, marijuana use has a detrimental effect on individual learning and brain development; and

WHEREAS, national pro-marijuana organizations have invested millions to push drug legalization in America, and have targeted Idaho for a "medical" marijuana initiative in 2014; and

WHEREAS, drug legalization efforts in other states have led to social, economic and legal chaos, with programs full of fraud and abuse; and

WHEREAS, drug legalization laws in neighboring states have already adversely impacted Idaho through cultural acceptance of drug use that reduces the perception of harm among children and increases drug use; and

WHEREAS, increased drug use will impact public education in Idaho, productivity in the workplace, escalate the number of impaired drivers on Idaho roads, and affect other areas of our lives; and

WHEREAS, the people of Idaho have a strong tradition of prevention efforts through public education, sound public policies and laws pertaining to substance abuse.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Idaho Legislature takes this opportunity to state its opposition to efforts to legalize marijuana for any purpose in the State of Idaho.

Adopted by the Senate February 25, 2013

Adopted by the House March 27, 2013

(S.C.R. No. 114)

## A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE IDAHO STATE POLICE RELATING TO RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Idaho State Police relating to Rules of the Idaho Peace Officer Standards and Training Council are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 11.11.01, Idaho State Police, Rules of the Idaho Peace Officer Standards and Training Council, Section 010, Subsection 27 and Section 197, Subsection 01, only, adopted as pending rules under Docket Number 11-1101-1202, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 22, 2013

Adopted by the House March 27, 2013

(S.C.R. No. 115)

## A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE IDAHO STATE POLICE RELATING TO RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Idaho State Police relating to Rules of the Idaho Peace Officer Standards and Training Council is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 11.11.01, Idaho State Police, Rules of the Idaho Peace Officer Standards and Training Council, Section 091, Subsection 01, only, adopted as a pending rule under Docket Number 11-1101-1201, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 22, 2013

Adopted by the House March 27, 2013

(S.C.R. No. 117)

## A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE IDAHO PUBLIC UTILITIES COMMISSION RELATING TO THE TELEPHONE CUSTOMER RELATIONS RULES.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Idaho Public Utilities Commission relating to The Telephone Customer Relations Rules is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 31.41.01, Idaho Public Utilities Commission, The Telephone Customer Relations Rules, Section 502, Subsection 01.a, only, adopted as a pending rule under Docket Number 31-4101-1201, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate March 1, 2013

Adopted by the House March 27, 2013

(S.C.R. No. 118)

## A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE DEPARTMENT OF ADMINISTRATION RELATING TO RULES GOVERNING USE OF THE EXTERIOR OF STATE PROPERTY IN THE CAPITOL MALL AND OTHER STATE FACILITIES.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Department of Administration relating to Rules Governing Use of the Exterior of State Property in the Capitol Mall and Other State Facilities are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 38.04.06, Department of Administration, Rules Governing Use of the Exterior of State Property in the Capitol Mall and Other State Facilities, Section 201, Section 302, Subsections 01., 02. and 03. and Section 313, only, adopted as pending rules under Docket Number 38-0406-1202, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate March 1, 2013

Adopted by the House March 27, 2013

(S.C.R. No. 119)

## A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE DEPARTMENT OF ADMINISTRATION RELATING TO RULES GOVERNING USE OF IDAHO STATE CAPITOL EXTERIOR.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Department of Administration relating to Rules Governing Use of Idaho State Capitol Exterior are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 38.04.08, Department of Administration, Rules Governing Use of Idaho State Capitol Exterior, Section 201, Section 302, Subsections 01.a, 01.b., 01.c. and 01.d. and 02. and Section 313, only, adopted as pending rules under Docket Number 38-0408-1202, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate March 1, 2013

Adopted by the House March 27, 2013

(S.C.R. No. 120)

## A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND COMMENDING THE BOISE SCHOOL DISTRICT FOR ITS 2013 READ RIGHT AWARD OF EXCELLENCE, ITS CONTINUING COMMITMENT TO THE READ RIGHT PROGRAM AND ITS FOCUS ON THE SUCCESS OF BOISE STUDENTS.

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

WHEREAS, reading is the foundation of learning; and

WHEREAS, the Read Right program was originally funded through a grant from the J.A. & Kathryn Albertson Foundation to provide an avenue for students from diverse backgrounds to become successful readers when other methods have failed; and

WHEREAS, the Read Right program is designed to help struggling readers to focus on the construction of meaning every time they read rather than focus on single words in isolation and to begin to "remodel" how they read for the specific purpose of comprehension; and

WHEREAS, the Read Right program helps struggling readers integrate phonetic clues with preexisting knowledge of the subject matter, preexisting knowledge of language and its structure, knowledge of punctuation and more as they seek to understand the meaning of the text; and

WHEREAS, participation in the Read Right program requires time, commitment and belief in the methodology by both the tutors and students; and

WHEREAS, the Boise School District began using the Read Right program nearly fifteen years ago, and it is currently offered in nine Boise elementary schools and three junior high schools; and

WHEREAS, the Boise School District has remained committed to quality implementation of the Read Right program since it first began using the Read Right methods; and



WHEREAS, the Boise School District's Read Right team includes thirty full and part-time staff members who tutor, through the Read Right program, an estimated 375 Boise students on any given day; and

WHEREAS, the Boise School District has used the instructional methods of the Read Right program to help an estimated 2,000 children and teens with significant reading challenges find success; and

WHEREAS, the Boise School District's Read Right program has helped yield, on average, an eleven percent improvement over the last decade in the number of kindergartners through third graders reading at grade level in the district according to the Idaho Reading Indicator; and

WHEREAS, the Read Right program has enabled the Boise School District's kindergarten through third grade students to read at grade level nine percentage points higher than the state average, according to the Fall 2011-2012 Idaho Reading Indicator; and

WHEREAS, the Boise School District has been named a recipient of the 2013 Read Right Award of Excellence for embracing the practices essential for a successful Read Right program, including outstanding fidelity to the instructional methodology, regular summative evaluation and strong administrative support; and

WHEREAS, the Boise School District is one of only seven recipients, including just two school districts from across the country deemed worthy to receive this prestigious and meaningful award.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Boise School District be recognized and commended for its 2013 Read Right Award of Excellence, its continuing commitment to the Read Right program and its focus on the success of Boise students.

Adopted by the Senate March 7, 2013

Adopted by the House March 27, 2013

(S.C.R. No. 121)

#### A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE DOCKET OF THE BUREAU OF OCCUPATIONAL LICENSES RELATING TO RULES OF THE IDAHO DRIVING BUSINESSES LICENSURE BOARD.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the Bureau of Occupational Licenses relating to Rules of the Idaho Driving Businesses Licensure Board is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 24.25.01, Bureau of Occupational Licenses, Rules of the Idaho Driving Businesses Licensure Board, adopted as a pending rule under Docket Number 24-2501-1201, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate March 11, 2013

Adopted by the House March 27, 2013

(S.C.R. No. 122)

## A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE BUREAU OF OCCUPATIONAL LICENSES RELATING TO RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Bureau of Occupational Licenses relating to Rules of the Board of Architectural Examiners are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 24.01.01, Bureau of Occupational Licenses, Rules of the Board of Architectural Examiners, Section 550, Subsection 03, relating to Contracts, only, adopted as a pending rule under Docket Number 24-0101-1201, and that IDAPA 24.01.01, final rule Section 550, Subsection 04, relating to Direct Supervision, only, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate March 11, 2013

Adopted by the House March 27, 2013

(S.C.R. No. 124)

## A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND HONORING FIVE IDAHO SERVICEMEN WHO FOUGHT AND LOST THEIR LIVES IN AFGHANISTAN WITHIN THE PAST YEAR.

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

WHEREAS, American service members, many of them Idahoans, or their family members have served their country honorably and at great personal sacrifice in the wars in Iraq and Afghanistan; and

WHEREAS, five persons with Idaho ties paid the ultimate sacrifice within the past year; and

WHEREAS, U.S. Army Staff Sergeant Daniel J. Brown, 27 years of age, from Jerome was killed in action in Kandahar, Afghanistan, on March 24, 2012. Daniel had been a standout athlete at Jerome High School and mentored younger children in baseball as his senior project. His family said of him that he loved the company of others and was a friend to everyone he knew because he always put others before himself. Daniel felt a call to join the Army after the events of 9/11. He was a leader who took his role seriously and led by example. He was a well-decorated soldier, and during his nearly nine years in the Army he was awarded the service's Commendation Medal four times. Brigadier General Jeffrey Bailey said of Daniel that he put his life on the line, not for glory or personal gain but because he embraced the values of the Army. Daniel is survived by his wife, Jordan Brown, their twin now fourteen-month-old daughters Mattie L. and Marlee L. Brown, his mother Rebecca K. Brown, father Jerald L. Brown, brother Matthew L. Brown and grandparents; and

WHEREAS, U.S. Army Sergeant Chris J. Workman, 33 years of age, was killed in action in Divalak, Afghanistan, on April 19, 2012. Chris was a graduate of Minico High School in Rupert, Idaho, and Idaho State University.

He loved to hunt, fish and just hang out with his older brother Harry as they were best friends growing up. His family said of him that he was a highly energetic, self-reliant man who was very outgoing and had many friends throughout Idaho. As a little boy, Chris had dreamed of becoming a soldier. His military career began in 2008 when he joined the Army Reserves at Gowen Field in Boise. This solidified his desire to become an active duty soldier and the following year he enlisted in active duty service and was assigned to Schofield Barracks in Oahu, Hawaii. Chris was deployed to Afghanistan in January 2012 as a gunner on a Blackhawk helicopter. He is survived by his wife, Camille Rudeen Workman, stepson Cole C. Hayes, brother Harry Workman and parents John and Anna Workman and extended family; and

WHEREAS, U.S. Army Private First Class Cody O. Moosman, 24 years of age, was killed in action in Gayan Alwara Mandi, Afghanistan, on July 3, 2012. Cody graduated from Franklin County High School in Preston, Idaho, and joined the military in May 2010. Since he was in the third grade, Cody told his family that he wanted to be in the Army, as he loved the idea of protecting his fellow citizens. He loved the outdoors and was an avid hunter and fisherman who had completed his Eagle Scout badge. His family stated that they enjoyed watching him stand up for America. Cody is survived by his mother Mareen Moosman and father Dennis Moosman, two brothers, two sisters, his grandparents and nieces and nephews; and

WHEREAS, U.S. Army Specialist Ethan J. Martin, 22 years of age, was killed in action in Koragay, Afghanistan, on August 7, 2012. Ethan's childhood years were spent hunting, fishing and playing in Bonners Ferry. In his sophomore year he moved to Lewiston, where he graduated from Lewiston High School. Shortly after graduation, he made the decision to join the military. His family describes him as a very loving young man with a tender heart. He had planned to attend nursing school after the Army. He was loved by everyone who knew him and had a special talent for touching the lives of everybody around him. He will be remembered for his carefree attitude, love of life and his goofy smile. Ethan is survived by his mother Kristie Surprenant, stepfather Bob A. Surprenant, father Harvey Martin, stepmother Pamela Martin, a sister, stepsiblings, grandparents and numerous aunts, uncles and cousins; and

WHEREAS, U.S. Army Private First Class Shane G. Wilson, 20 years of age, died in Khost, Afghanistan, on October 18, 2012, while supporting Operation Enduring Freedom. Shane graduated from Kuna High School in 2011 and looked forward to serving his country. He had wanted to be a military man from a very young age and was proud to be a soldier. Shane was assigned to the 3rd Battalion, 187th Infantry Regiment, 3rd Brigade Combat Team, 101st Airborne Division, out of Fort Campbell, Kentucky. He was a very humble young man, was fiercely loyal, and knew how to keep a confidence. He was caring and compassionate and always placed others before himself. Shane is survived by his mother Danielle DeMarco, father Greg Wilson, sisters Shelby Wilson and Sydney DeMarco, grandparents, great-grandparents and extended family.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that we honor, memorialize and commemorate U.S. Army Staff Sergeant Daniel J. Brown, U.S. Army Sergeant Chris J. Workman, U.S. Army Private First Class Cody O. Moosman, U.S. Army Specialist Ethan J. Martin and U.S. Army Private First Class Shane G. Wilson for their unselfish service to our country, fighting for our freedoms, and we recognize, honor and memorialize their ultimate sacrifice.

BE IT FURTHER RESOLVED that the Secretary of the Senate is authorized to send a copy of this Concurrent Resolution to the immediate families of the servicemen mentioned above.

Adopted by the Senate March 15, 2013

Adopted by the House March 27, 2013

(S.C.R. No. 125)

## A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND APPROVING ADMINISTRATIVE RULES THAT IMPOSE A FEE OR CHARGE, WITH STATED EXCEPTIONS, AND REJECTING CERTAIN AGENCY RULES THAT ARE NOT APPROVED.

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

WHEREAS, the Legislature pursuant to Section 67-5224, Idaho Code, must approve certain administrative rules that impose a fee or charge by adoption of a concurrent resolution before the rules become effective; and

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Department of Agriculture governing Organic Food Product Rules is not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the State Athletic Commission, Rules of the State Athletic Commission, is not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the Idaho State Lottery Commission, Rules Governing Operations of the Idaho State Lottery, is not consistent with legislative intent; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that all pending administrative rules or portions of pending administrative rules adopted by state agencies pursuant to the Administrative Procedure Act during the prior calendar year, and submitted through the Office of the Administrative Rules Coordinator to the Legislature for review during the 2013 legislative session, which impose a fee or charge, be, and the same are approved, with the exception of the following enumerated pending fee rules:

IDAPA 02.06.33, the Department of Agriculture, Organic Food Product Rules, Section 201, Subsection 04.b, only, adopted as a pending fee rule under Docket Number 02-0633-1201;

IDAPA 03.01.01, the State Athletic Commission, Rules of the State Athletic Commission, adopted as a pending fee rule under Docket Number 03-0101-1201, the entire rulemaking docket; and

IDAPA 52.01.03, the Idaho State Lottery Commission, Rules Governing Operations of the Idaho State Lottery, adopted as a pending fee rule under Docket Number 52-0103-1201, the entire rulemaking docket.

BE IT FURTHER RESOLVED that IDAPA 02.06.33, the Department of Agriculture, Organic Food Product Rules, Section 201, Subsection 04.b, only, adopted as a pending fee rule under Docket Number 02-0633-1201; IDAPA 03.01.01, the State Athletic Commission, Rules of the State Athletic Commission, adopted as a pending fee rule under Docket Number 03-0101-1201, the entire rulemaking docket; and IDAPA 52.01.03, the Idaho State Lottery Commission, Rules Governing Operations of the Idaho State Lottery, adopted as a pending fee rule under Docket Number 52-0103-1201, the entire rulemaking docket; are hereby rejected and not approved, and thereby pursuant to

Sections 67-5224 and 67-5291, Idaho Code, are declared null, void and of no force and effect.

BE IT FURTHER RESOLVED that rule provisions imposing fees or charges that were not submitted through the Office of the Administrative Rules Coordinator for legislative review or that otherwise are not included and approved in this concurrent resolution shall be null, void and of no force and effect unless approved by adoption of a separate concurrent resolution by both houses of the Legislature as provided in Section 67-5224, Idaho Code.

Adopted by the Senate March 18, 2013

Adopted by the House March 27, 2013

(S.C.R. No. 126)

A CONCURRENT RESOLUTION  
STATING LEGISLATIVE FINDINGS AND APPROVING AND EXTENDING TEMPORARY RULES  
REVIEWED BY THE LEGISLATURE.

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

WHEREAS, the Legislature by statute must approve temporary rules by adoption of a concurrent resolution approving the rule if the temporary rule is to remain in effect beyond the end of the current legislative session; and

WHEREAS, the expiration of temporary rules would occasion additional expense to state agencies in readopting and republishing temporary rules needed to conduct state business; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that all temporary rules adopted by state agencies pursuant to the Administrative Procedure Act and submitted to the Legislature at the Legislature's request through the Office of the Administrative Rules Coordinator for review during the 2013 legislative session, be, and the same are approved.

BE IT FURTHER RESOLVED that a temporary rule or partial temporary rule approved by this concurrent resolution shall remain in effect until it expires by its own terms or by operation of law or until it is replaced by a final rule, but in no event shall a temporary rule remain in effect beyond the conclusion of the Second Regular Session of the Sixty-second Idaho Legislature unless it is further extended by adoption of a concurrent resolution by both houses of the Legislature. Temporary rules or sections of temporary rules which were not submitted to the Legislature for review during the 2013 legislative session shall expire by operation of statute upon adjournment of the First Regular Session of the Sixty-second Idaho Legislature, unless approved by adoption of a separate concurrent resolution by both houses of the Legislature.

Adopted by the Senate March 18, 2013

Adopted by the House March 27, 2013

(S.C.R. No. 127)

## A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO MONITOR ENERGY, ENVIRONMENT AND TECHNOLOGY ISSUES AND TO MONITOR THE INTEGRATED STATE ENERGY PLAN AND OTHER ISSUES.

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

WHEREAS, for the past sixteen years, the Legislature has adopted concurrent resolutions that authorized the Legislative Council to appoint a committee to monitor energy, environment and technology related issues from both the statewide perspective and the national perspective and to submit a final report to the Idaho Legislature; and

WHEREAS, in 2006 and 2011 the Legislature felt the State of Idaho needed to have an Integrated State Energy Plan that provides for the state's power generation needs and protects the health and safety of the citizens of Idaho and the products produced in this state; and

WHEREAS, Idaho will have substantial power needs in the near future, and the goal of the 2012 Integrated State Energy Plan is to ensure that those needs will be met; and

WHEREAS, it is the goal of the 2012 Integrated State Energy Plan to maintain the health, safety and welfare of Idaho's citizens, the quality and financial security of existing agricultural businesses and industries, the economic growth of the State of Idaho, and the environmental quality and natural resources of this state; and

WHEREAS, it is the goal that the 2012 Integrated State Energy Plan be a living, vibrant document; and

WHEREAS, the committee met in 2011 and revised the 2007 Integrated State Energy Plan, followed the fluctuation in petroleum prices and heard testimony regarding issues facing regulated utilities, municipal utilities and cooperatives, industry and alternative energy sources and met in 2012 and followed other energy, environment and technology issues.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is authorized to appoint a committee to monitor the 2012 Integrated State Energy Plan that provides for the state's power generation needs and protects the health and safety of the citizens of Idaho and the products produced in this state, and makes any recommendations for necessary changes in both state law and the plan regarding energy in the state, including but not limited to, oil and natural gas, and to monitor other energy, environment and technology related issues, including those instituted by the federal government. The Legislative Council shall determine the number of legislators and membership from each house appointed to the committee and shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the Legislature.

BE IT FURTHER RESOLVED that nonlegislative members of the committee may be appointed by the cochairs of the committee who are appointed by the Legislative Council. Nonlegislative members of the advisory committee shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the committee's recommendations or proposed legislation.

BE IT FURTHER RESOLVED that the committee shall make a progress report to the Second Regular Session of the Sixty-second Idaho Legislature and report its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Sixty-third Idaho Legislature.

Adopted by the Senate March 20, 2013

Adopted by the House March 27, 2013

(S.C.R. No. 128)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF THE IDAHO CRIMINAL JUSTICE SYSTEM.

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

WHEREAS, the First Regular Session of the Sixty-second Idaho Legislature is desirous of undertaking a study of the data-driven, fiscally responsible policies and practices that can increase public safety, reduce recidivism and reduce spending on corrections in Idaho; and

WHEREAS, Idaho would like to receive Justice Reinvestment Technical Assistance from the Council of State Government's Justice Center to complete a study and develop solutions and evidence-based practices to improve Idaho's criminal justice system, making it more efficient and effective; and

WHEREAS, all three branches of Idaho government are supportive of exploring a justice reinvestment and resource reallocation approach to improve public safety, reduce recidivism and reduce spending on corrections; and

WHEREAS, the Idaho Legislature finds that creating an interim legislative committee to guide the analysis and policy development, co-chaired by the Senate Judiciary and Rules Committee Chair and the House of Representatives Judiciary, Rules and Administration Committee Chair, will promote the goals of this study; and

WHEREAS, it is in the best interests of the State of Idaho and its citizens to advance this study, and the interim committee shall submit a report of its activities, findings and recommendations regarding increased public safety, reducing recidivism, reducing spending on corrections and the reallocation and reinvestment of resources.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study of the criminal justice system of the State of Idaho. The committee shall consist of ten legislators with five from the Senate and five from the House of Representatives. Additional legislators may also be appointed as nonvoting members of the committee. The Legislative Council shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the Legislature.

BE IT FURTHER RESOLVED that the Co-Chairs of the committee are authorized to appoint advisors with expertise in Idaho's criminal justice system and are expected to receive input from the Council of State Government Justice Center.

BE IT FURTHER RESOLVED that any advisors to the committee who are not legislative members shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the committee's recommendations and proposed legislation.

BE IT FURTHER RESOLVED that the committee shall report to the Second Regular Session of the Sixty-second Idaho Legislature and detail its findings and recommendations.

Adopted by the Senate March 22, 2013

Adopted by the House April 1, 2013

(S.C.R. No. 129)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND PROVIDING FOR THE AMENDMENT OF JOINT RULE 18 OF THE JOINT RULES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF IDAHO RELATING TO STATEMENTS OF PURPOSE AND FISCAL NOTES.

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

WHEREAS, the Senate and the House of Representatives deem it necessary and desirable to amend Joint Rule 18 of the Joint Rules of the Senate and the House of Representatives.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that Joint Rule 18 of the Senate and the House of Representatives shall be amended to read as follows:

JOINT RULE 18

STATEMENT OF PURPOSE AND FISCAL NOTES

Statement of Purpose and Fiscal Notes. -- No bill shall be introduced in either house unless it shall have attached thereto a concise statement of purpose and fiscal note. The contact person for the statement of purpose and fiscal note shall be identified on the document. A statement of purpose or fiscal note is not a statement of legislative intent nor intended for any use outside of the legislative process. The statement of purpose and fiscal note applies only to a bill as introduced, and does not necessarily reflect any amendment to the bill that may be adopted. No bill making an appropriation, increasing or decreasing existing appropriations, or requiring a future appropriation, or increasing or decreasing revenues of the state or any unit of local government, or requiring a significant expenditure of funds by the state or a unit of local government, shall be introduced unless it shall have attached thereto a fiscal note. This note shall contain an estimate of the amount of such appropriation, expenditure, or change under the bill. The fiscal note shall identify a full fiscal year's impact of the legislation. Statements of purpose and fiscal notes may be combined in the same statement. All statements of purpose and fiscal notes shall be reviewed for compliance with this rule by the committee to which the bill is assigned. A member may challenge the sufficiency of a statement of purpose or fiscal note at any time prior to passage, except upon introduction. Nothing in this rule shall prohibit a statement of purpose or fiscal note from being revised.

Adopted by the Senate March 26, 2013

Adopted by the House April 1, 2013



(S.C.R. No. 131)

## A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND PROVIDING FOR THE ADDITION OF A NEW JOINT RULE 21 OF THE JOINT RULES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF IDAHO RELATING TO RECORDING OF PROCEEDINGS OF THE CHAMBERS.

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

WHEREAS, the Senate and the House of Representatives deem it necessary and desirable to add a new Joint Rule 21 to the Joint Rules of the Senate and the House of Representatives.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Joint Rules of the Senate and the House of Representatives shall be amended by the addition thereto of a new Joint Rule 21 to read as follows:

## JOINT RULE 21

RECORDING OF PROCEEDINGS OF THE CHAMBERS. -- The proceedings of each house shall be recorded and live streamed by an authorized designee, provided that either house may suspend or end recording and/or live streaming of its proceedings upon a two-thirds vote of the chamber wherein the proceeding takes place. A statement made during floor or committee proceedings is indicative only of the individual speaker and is not an expression of legislative intent by the body as a whole. No recording shall substitute for the Journal of either house as required by Section 13, Article III of the Constitution of the State of Idaho. All recordings shall be maintained by the Director of Legislative Services or his designee for two years, and then transferred to the state archivist. No member of the Legislature, its employees, or designees shall be permitted to certify or authenticate any recording made under this rule.

Adopted by the Senate March 26, 2013

Adopted by the House April 1, 2013

# HOUSE CONCURRENT RESOLUTION

(H.C.R. No. 1)

## A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE FIRST REGULAR SESSION OF THE SIXTY-SECOND IDAHO LEGISLATURE FOR THE PURPOSE OF HEARING A MESSAGE FROM THE GOVERNOR.

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

WHEREAS, the Governor has informed the House of Representatives and the Senate that he desires to deliver a message to a Joint Session of the House of Representatives and the Senate of the First Regular Session of the Sixty-second Idaho Legislature in the Chamber of the House of Representatives at 1 p.m. on Monday, January 7, 2013.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the House of Representatives and the Senate meet in Joint Session on Monday, January 7, 2013, at 1 p.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 7, 2013

Adopted by the Senate January 7, 2013

(H.C.R. No. 2)

## A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND RECOGNIZING AND CONGRATULATING MADISON COUNTY AND ITS RESIDENTS FOR THE COUNTY'S CENTENNIAL ANNIVERSARY.

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

WHEREAS, the county of Madison was established on February 18, 1913, with the approval and signature of Governor John M. Haines and is celebrating its Centennial Anniversary this year; and

WHEREAS, Madison County was named for President James Madison, the fourth president of the United States, with the county seat located at Rexburg, Idaho; and

WHEREAS, Madison County has historical agricultural significance in the state, having the first irrigation system, as well as being known as the eighth largest potato growing county in the nation. The county is also home to twenty-one Century Farms, those farms officially recognized as having been continuously owned by a single family for one hundred years or more; and

WHEREAS, Madison County graduates a high percentage of not only its high school students but also its university students who attend the second

largest university in Idaho, Brigham Young University-Idaho, formerly Ricks College; and

WHEREAS, Madison County is one of the fastest growing counties in the State of Idaho and is known as the business hub of the Upper Snake River Valley; and

WHEREAS, Madison County is recognized as the heart of tourism of the Upper Snake River Valley with visitor attractions including Yellowstone Bear World, Teton Dam Flood Museum, Brigham Young University-Idaho Campus, Idaho's International Dance and Music Festival, the Legacy Flight Museum, Idaho's only restored, authentic wooden carousel, the Idaho Centennial Carousel, and the Rexburg Tabernacle. Madison County is also the home of Green Canyon Hot Springs, the first hot springs discovered in eastern Idaho, a widely known tourist attraction. The hot springs were first visited by white men in 1811. Wilson Price Hunt visited the hot springs while spending time at Fort Henry. The springs issue forth from the base of the Big Hole mountains at a temperature of 115 degrees, with the water containing magnesium, lime and a trace of iron but no sulfur; and

WHEREAS, there are also four protected areas in Madison County offering recreational opportunities, including Caribou-Targhee National Forest, Cartier Slough Wildlife Management Area, Deer Park Wildlife Management Area and the twin Menan Buttes, two of the world's largest volcanic tuff cones; and

WHEREAS, five men with connections to Madison County went on to become governors, including Charles Calvin Moore (ID), Arnold Williams (ID), George Romney (MI), Mark Parkinson (KS) and Mitt Romney (MA). Two men from Madison County went on to become congressmen. They were Sherman Parkinson Lloyd (UT) and Richard Stallings (ID). In addition, Madison County is also home to one of Idaho's former Lt. Governors, Lt. Governor Mark Ricks.

WHEREAS, the Madison County Centennial Celebration Committee, consisting of nearly fifty volunteers, will kick off the Centennial Celebration on February 18, 2013, one hundred years from the date Madison County was created, with a Ribbon Cutting Ceremony and Photo History Exhibit at the Madison County Courthouse. Other events will include a Centennial Ball and significant community celebrations held in connection with Independence Day events and Madison County Fair events.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we hereby recognize and congratulate Madison County and its residents for Madison County's Centennial Anniversary on February 18, 2013.

Adopted by the House January 31, 2013

Adopted by the Senate February 18, 2013

(H.C.R. No. 3)

#### A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REQUESTING THE STATE BOARD OF EDUCATION COMMENCE RULEMAKING TO PROVIDE THAT CURSIVE HANDWRITING SHALL BE TAUGHT IN THE PUBLIC ELEMENTARY SCHOOLS OF THIS STATE.

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

WHEREAS, the Legislature recognizes that handwriting, based upon empirical evidence from neuroscience, plays a major role in the visual recognition and learning of letters; and this is something the State of Idaho should be aware of in an educational context. The State of Idaho recognizes that those who learn to write by hand learn better; and

WHEREAS, there have been studies where cursive handwriting has helped students with their fine motor skills and made them more graceful; these students show more of an interest in art because they are able to form things they hadn't before and they have new muscle movements that they didn't know before; and

WHEREAS, there was an experiment involving two groups of adults in which participants were taught a new, foreign alphabet. One group learned the characters by hand, the other learned only to recognize them on a screen and with a keyboard. Weeks after the experiment, the group that learned the letters by hand consistently scored better on recognition tests than those who learned with a keyboard. Brain scans of the hands-on group also showed greater activity in the part of the brain that controls language comprehension, motor-related processes and speech-associated gestures; and

WHEREAS, the Legislature also recognizes that there are reliable scientific studies that show, for some important aspects of reading and composition, digital technology may not be as important as handwriting; and

WHEREAS, the Legislature also recognizes that if the cursive script is not taught, the time will come when people will not be able to read old diaries, journals, letters, documents and the like written in cursive. This will have a negative effect on the study of genealogy and family history and will weaken society's relationship to its past.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the State Board of Education is requested to commence rulemaking to provide that cursive handwriting shall be taught in the public elementary schools of this state.

BE IT FURTHER RESOLVED that the State Board of Education shall report its progress in its rulemaking pursuant to this Resolution to the Second Regular Session of the Sixty-second Idaho Legislature.

Adopted by the House February 12, 2013

Adopted by the Senate February 28, 2013

(H.C.R. No. 4)

#### A CONCURRENT RESOLUTION

COMMENDING KRISTIN ARMSTRONG FOR HER ACCOMPLISHMENTS AT THE 2012 SUMMER OLYMPICS IN LONDON, ENGLAND, AND FOR HER SUPERIOR ATTITUDE, WORK ETHIC, FOCUS AND EXEMPLARY CONDUCT.

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

WHEREAS, Kristin Armstrong has been a longtime resident of Idaho and currently resides in Boise; and

WHEREAS, Kristin Armstrong holds a Bachelor of Science degree in sports physiology from the University of Idaho College of Education; and

WHEREAS, Kristin Armstrong is a tireless volunteer who promotes physical fitness and health in numerous community groups and serves as an ambassador to the YMCA of Boise; and

WHEREAS, Kristin Armstrong is a world-class athlete and has climbed to the top of her profession, becoming one of the most accomplished American cyclists of all time in the face of great adversity, winning all of her cycling victories after being diagnosed with osteoarthritis in 2001; and

WHEREAS, prior to the 2012 Summer Olympics, Kristin Armstrong was a two-time USA Cycling National Road Race Champion, three-time USA Cycling National Time Trial Champion, 2006 and 2009 World Time Trial Champion and the Individual Time Trial Gold Medalist of the 2008 Summer Olympics, making her the first Boise resident to win an Olympic Gold Medal; and

WHEREAS, Kristin Armstrong overcame injury and adversity in 2012 to become the Individual Time Trial Gold Medalist of the 2012 Summer Olympics in London, England, earning her second Gold Medal in two Olympics; and

WHEREAS, Kristin Armstrong is respected throughout the world as a fierce competitor but also as a friendly compatriot when the race is over; and

WHEREAS, Kristin Armstrong's performance in the 2012 Summer Olympics has further inspired and renewed an interest in cycling that promotes a healthy lifestyle and enhances the image of Idaho as a state with an active and vibrant outdoor culture; and

WHEREAS, Kristin Armstrong continues to be a positive and inspirational example of sportsmanship for all of Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we recognize and honor Kristin Armstrong for her Gold Medal winning performance at the 2012 Summer Olympics in London, England, for her superior attitude, work ethic, focus and exemplary conduct and for the pride and inspiration she brings to Idaho and to America.

Adopted by the House January 28, 2013

Adopted by the Senate February 26, 2013

(H.C.R. No. 5)

#### A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND COMMEMORATING THE IDAHO TERRITORIAL SESQUICENTENNIAL AND PROVIDING THAT THE LEGISLATIVE AUDITORIUM BE NAMED THE ABRAHAM LINCOLN AUDITORIUM.

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

WHEREAS, March 4, 2013, marks the 150th anniversary of the creation of the Idaho Territory by President Abraham Lincoln in 1863; and

WHEREAS, the Idaho Territorial Sesquicentennial is a once in a lifetime opportunity to educate individuals and communities across our state about their heritage and to commemorate this 150th milestone; and

WHEREAS, the Sesquicentennial will shape our state by helping Idahoans explore and appreciate our territorial roots while creating lasting legacies for the future; and

WHEREAS, Abraham Lincoln as president was involved in choosing the name "Idaho" for a new territory, lobbied Congress to accomplish passage of the Idaho Act, and appointed the first two territorial governors and thirteen other men to judicial and federal office in Idaho prior to April 14, 1865; and

WHEREAS, among President Lincoln's last official acts in the White House on the final day of his life was the authorizing of additional appointments to fill vacancies in office for the Idaho Territory; and

WHEREAS, President Lincoln also contributed to the development of the State of Idaho through his support of the Homestead Act, the Morrill Act that established land grant colleges, and by the launching of a transcontinental railway; and

WHEREAS, Abraham Lincoln embodies the essence of the American spirit, preserving the nation and creating a peace "with malice toward none and charity for all."

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we commemorate the historic 150th anniversary of the creation of the Idaho Territory by President Abraham Lincoln.

BE IT FURTHER RESOLVED that the Legislative Auditorium in the West Wing of the State Capitol Building be named and forever known as the Abraham Lincoln Auditorium and that legislative leadership working with the State Historical Society and the Capitol Commission provide appropriate signs, plaques, exhibits or works of art associated with Abraham Lincoln and that these be placed in or near the Abraham Lincoln Auditorium.

Adopted by the House January 30, 2013

Adopted by the Senate March 4, 2013

(H.C.R. No. 6)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND CALLING FOR THE IDAHO BOARDS OF MEDICINE, NURSING, DENTISTRY AND PHARMACY, WORKING WITH THE OFFICE OF DRUG POLICY, THE IDAHO DEPARTMENT OF HEALTH AND WELFARE, LOCAL GOVERNMENTS, LOCAL LAW ENFORCEMENT AND PROSECUTORS, AND PROFESSIONAL ASSOCIATIONS THROUGHOUT IDAHO TO USE THE BOARD OF PHARMACY'S PRESCRIPTION MONITORING PROGRAM AND BEST PRACTICES IN ORDER TO INCREASE AWARENESS AND PREVENT AND TREAT PRESCRIPTION DRUG ABUSE FOR THE PEOPLE OF IDAHO AND CALLING FOR THE OFFICE OF DRUG POLICY TO COORDINATE THE DEVELOPMENT OF A STATE RESPONSE TO THE PROBLEM OF PRESCRIPTION DRUG ABUSE.

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

WHEREAS, prescription drug abuse has recently been classified as an epidemic by the Centers for Disease Control and Prevention (CDC); and

WHEREAS, many individuals who misuse prescription drugs intended to alleviate disease and eliminate pain believe these substances are safer than illicit drugs because they are prescribed by a health care professional and dispensed by a pharmacist; and

WHEREAS, the misuse of prescription drugs can lead to addiction and even death; and

WHEREAS, according to the CDC, such overdoses outnumber deaths involving crack or heroin combined; and

WHEREAS, in 2010, approximately 12 million Americans reported nonmedical use of prescription painkillers in the past year; and

WHEREAS, more than 13,000 babies a year are born in America addicted to prescription painkillers like OxyContin, hydrocodone and other narcotic drugs, according to a recent study released by the Journal of the American Medical Association; and

WHEREAS, the number of emergency room visits due to misuse or abuse of prescription drugs has risen 98.4% since 2004; and

WHEREAS, according to the Idaho Office of Drug Policy, in 2011, 20.1% of Idaho's 9th through 12th grade students reported taking a prescription drug without a doctor's prescription; and

WHEREAS, the number of prescription pills seized by Idaho law enforcement increased 143% between 2008 and 2009; and

WHEREAS, in Idaho, from 2000 to 2009, the number of prescription drug-induced deaths increased two and one-half times.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho Legislature calls for the Idaho Boards of Medicine, Nursing, Dentistry and Pharmacy, working with the Office of Drug Policy, the Idaho Department of Health and Welfare, local governments, local law enforcement and prosecutors, and professional associations throughout Idaho to use the Board of Pharmacy's Prescription

Monitoring Program and best practices in order to increase awareness and prevent and treat prescription drug abuse for the people of Idaho.

BE IT FURTHER RESOLVED that the Office of Drug Policy should coordinate the development of a state response to the problem of prescription drug abuse.

Adopted by the House March 4, 2013

Adopted by the Senate March 8, 2013

(H.C.R. No. 7)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE IDAHO TRANSPORTATION DEPARTMENT RELATING TO RULES GOVERNING LICENSE PLATE PROVISIONS.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Idaho Transportation Department relating to Rules Governing License Plate Provisions are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 39.02.60, Idaho Transportation Department Rules Governing License Plate Provisions, adopted as a pending rule under Docket Number 39-0260-1201, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the House February 22, 2013

Adopted by the Senate March 7, 2013

(H.C.R. No. 8)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND RECOGNIZING THE ACHIEVEMENTS OF THE IDAHO TRANSPORTATION DEPARTMENT.

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

WHEREAS, previously the Idaho Transportation Department (ITD) was using an outdated model, layered with bureaucracy, to run its organization; and

WHEREAS, ITD employees were not rewarded or promoted based upon results achieved but based solely upon being a supervisor; and

WHEREAS, ITD chose to realign its organization to provide greater efficiency, greater accountability for its employees, increased customer service and decreased cost; and

WHEREAS, ITD was able to successfully realign by eliminating layers of management and duplicate positions and by clearly defining roles, responsibilities and expectations of its employees; and

WHEREAS, no ITD employees lost their jobs or pay in the realignment; and  
WHEREAS, ITD's realignment generated \$5.7 million in savings in the first year and another \$7 million in the second year; and

WHEREAS, improvements in cash forecasting and project management practices will provide an additional \$100 million for highway maintenance and construction projects over the next five years; and

WHEREAS, numerous organizations including the Federal Highway Administration, the National Cooperative Highway Research Program and the American Association of State Highway and Transportation Officials have recognized ITD as a national leader in innovative practices; and

WHEREAS, ITD now has a strategic plan to use its transportation funds to target opportunities for economic growth by expanding existing businesses, attracting new businesses and creating jobs, while at the same time improving Idaho's infrastructure.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho Transportation Department be recognized and commended for its service to the people of Idaho and for its achievements in creating an innovative and efficient department that encourages economic growth.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives is hereby authorized and directed to forward a copy of this Resolution to the Governor of the State of Idaho.

Adopted by the House March 4, 2013

Adopted by the Senate March 8, 2013

(H.C.R. No. 10)

#### A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND DIRECTING THE IDAHO DEPARTMENT OF HEALTH AND WELFARE TO CONVENE A WORKING GROUP CHARGED WITH DEVELOPING LEGISLATION THAT CREATES A SYSTEM OF CARE FOR TIME-SENSITIVE EMERGENCIES IN IDAHO.

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

WHEREAS, time-sensitive emergencies, specifically blunt trauma injuries, strokes and heart attacks, were three of the top five causes of deaths in Idaho in 2011; and

WHEREAS, 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 Hospital-Based Emergency Care: At the Breaking Point, in 2006 recommended improving the care of critical illness through regionalization by transporting critically ill patients to designated specialized care centers; and

WHEREAS, Idaho remains one of only a few states without organized systems of care for trauma, stroke and heart attack; and

WHEREAS, trauma systems of care are well understood as they have existed in many other states for decades.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho Department of Health and Welfare should convene a working group to define the elements of, funding mechanisms for, and an implementation plan that uses the trauma component as the initial framework in a deliberate, incremental implementation approach for a comprehensive system of care for time-sensitive emergencies in Idaho.

BE IT FURTHER RESOLVED that the working group should draft legislative language for the 2014 legislative session that recognizes the need for a system of care for trauma, stroke and heart attack in Idaho.



BE IT FURTHER RESOLVED that the Idaho Department of Health and Welfare should include a broad stakeholder base in the membership of the working group to assure that the resulting legislative language best represents the needs of all Idahoans.

Adopted by the House March 4, 2013

Adopted by the Senate March 8, 2013

(H.C.R. No. 12)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE RECOGNIZING AND CONGRATULATING THE CITY OF BOISE AND ITS RESIDENTS ON THE CITY'S SESQUICENTENNIAL ANNIVERSARY.

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

WHEREAS, the city of Boise sits in a lush, verdant valley marking the boundary between the desert Great Basin to the south and the forested Rocky Mountains to the north, a location with abundant natural resources and a climate advantageous to a wide range of activities; and

WHEREAS, the Northern Shoshoni tribe of native Americans in prehistoric and historic eras occupied much of the region that includes the present-day city of Boise, and the Bannock and other native groups also lived and passed through this region; and

WHEREAS, early 19th century French Canadian explorers, among the first Europeans to visit this area, described it using the French words "les bois," meaning "wooded," which was eventually adapted to create the city's formal name; and

WHEREAS, gold fever hit the region in 1862 after discoveries in the nearby Boise Basin, and the allure of potential riches attracted aspiring miners and subsequently brought opportunities for entrepreneurs to establish supply and service businesses; and

WHEREAS, the rise of mining also created a need for irrigated farmland, and beginning with the Ridenbaugh Canal in 1878, the Boise River soon fed dozens of ditches and diversions that supplied the lifeblood for a booming agricultural economy across the entire valley; and

WHEREAS, the city of Boise was established one hundred fifty years ago on July 7, 1863, with the platting of ten blocks by Henry Chiles Riggs, William Ritchie and Tom Davis, and the city is thus celebrating its Sesquicentennial Anniversary this year; and

WHEREAS, Boise holds special significance in Idaho, being the state's largest city in its most populous region; the state's capital city and its center of government; and the state's economic engine by virtue of the large number of businesses and many types of industry that have found it a profitable place to call home; and

WHEREAS, Boise boasts the greatest concentration of arts in the state and is therefor considered by many to be Idaho's heart of the arts with more than 120 cultural opportunities ranging from the performing and visual arts to the literary arts and more; and

WHEREAS, Boise is home to Boise State University, which began as a two-year parochial school in the 1930s, became a public junior college, grew to a four-year institution and later a state university, and now enrolls more students than any other institution of higher education in Idaho; and

WHEREAS, Boise State University is also justifiably famous for its blue-turf football stadium and its team, the Broncos, that plays upon it and has been nationally ranked for more than a decade, winning nine postseason bowl games, including two Bowl Championship Series games, college football's most elite and prestigious series of postseason games; and

WHEREAS, throughout its one hundred fifty year history, Boise 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; and

WHEREAS, the same combination of adventure, ambition, industry, innovation and enterprise that led to the city's founding has created a cradle for entrepreneurs, innovators and visionaries whose work has had a global reach, helping create the Panama Canal, Hoover Dam and the Chunnel; potato chips and computer memory chips; the supermarket, engineered wood products and locomotives; the laser printer and enough patents to rank Boise among the nation's most prominent intellectual incubators; and

WHEREAS, the Sesquicentennial Anniversary's year long commemoration, known officially as BOISE 150, will be centered on three themes -- environment, enterprise and community -- that will trace the arc of Boise's story from its founding to the present day and frame the discussion about the city's future; and

WHEREAS, the Boise Department of Arts and History kicked off the Sesquicentennial Anniversary celebration on January 4, 2013, and will sponsor events throughout the year including, a large community party in Julia Davis Park on July 7, 2013, one hundred fifty years from the date the city was platted; and

WHEREAS, the city will sponsor numerous other events, such as the THINKING 150 weekend, when citizens will learn about the BOISE 150 themes of environment, enterprise and community; numerous public art dedications; the Sesqui-Speaks series, a free informal lecture series featuring local experts presenting on a wide range of historical and current topics; a merchant program that gives local businesses the opportunity to brand their own BOISE 150 products; and the Sesqui-Shop, a downtown storefront where BOISE 150 memorabilia can be acquired and with special space for exhibition and education activities throughout the year; and

WHEREAS, during BOISE 150, Mayor David H. Bieter will host two signature events: the Mayor's Awards for Excellence in Arts and History in September and the Mayor's Musical Celebration in October.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we hereby recognize and congratulate Boise City and its residents on its Sesquicentennial Anniversary to be celebrated on July 7, 2013.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives shall present a copy of this resolution to Mayor David H. Bieter of the City of Boise.

Adopted by the House March 4, 2013

Adopted by the Senate March 15, 2013

(H.C.R. No. 16)

#### A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND DECLARING SUPPORT FOR AN "INVENT IDAHO" DAY TO ACKNOWLEDGE AND CELEBRATE THIS CREATIVE STUDENT WORK AND TO INVITE A DISPLAY OF SUCH PROJECTS AT THE CAPITOL ROTUNDA AFTER EACH STATE COMPETITION.

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

WHEREAS, over one thousand Idaho students participated in "Invent Idaho" competitions last year; and

WHEREAS, this program addresses the STEM goal areas of science, technology, engineering and math; and

WHEREAS, Invent Idaho focuses on building 21st century skills, including communication, critical thinking and creativity; and

WHEREAS, the skills learned in Invent Idaho meet state education standards that include building a model, applying existing knowledge to generate new ideas, products, or processes and organizing and analyzing information; and

WHEREAS, participation in Invent Idaho encourages higher order thinking; and

WHEREAS, experiences garnered in Invent Idaho develop real-world thinking skills and advance creative thinking; and

WHEREAS, students have ownership in their education through being devoted to authentic learning as was evidenced when 2012 best of show winner Carson Magee was honored as the Juvenile Diabetes Research Foundation's Ambassador for his project related to diabetes; and

WHEREAS, this type of project learning is cross-curricular and multidisciplinary and creates opportunity for all students; and

WHEREAS, Invent Idaho meets a national demand for innovation and enables Idaho students to compete in a global economy.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we do hereby declare our support for an Invent Idaho Day to acknowledge and celebrate this creative student work and to invite a display of such projects at the Capitol rotunda after each state competition.

Adopted by the House March 5, 2013

Adopted by the Senate March 8, 2013

(H.C.R. No. 17)

#### A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE, REJECTING A CERTAIN RULE OF THE DEPARTMENT OF HEALTH AND WELFARE RELATING TO ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT AND RECOVERY SUPPORT SERVICES FACILITIES AND PROGRAMS AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Department of Health and Welfare relating to Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 16.07.20, Department of Health and Welfare, Rules Governing Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs, Section 009, Subsection 01, only, adopted as a pending rule under Docket Number 16-0720-1201, be, and the same is hereby rejected and declared null, void and of no force and effect. The remaining pending rules adopted under Docket Number 16-0720-1201, that are not herein rejected shall become final and effective on July 1, 2013.

Adopted by the House March 7, 2013

Adopted by the Senate March 25, 2013

(H.C.R. No. 18)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND CALLING UPON THE DEPARTMENT OF ADMINISTRATION TO DEVELOP A PLAN TO IMPROVE THE DEVELOPMENT, MANAGEMENT AND REPORTING OF CONTRACTS, TO TRAIN CONTRACT DEVELOPMENT AND MANAGEMENT PERSONNEL, TO REVIEW A DATABASE OF CONTRACTS AND TO DEVELOP A PLAN TO IDENTIFY AND OUTLINE THE DUTIES OF PROJECT MANAGERS.

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

WHEREAS, state government relies in part on successful contracts with vendors to provide goods and services, and effective contract management is essential to ensuring that Idaho's public funds are spent appropriately; and

WHEREAS, Idaho state agencies spend hundreds of millions of dollars each year on contracts for goods and services; and

WHEREAS, contracting in Idaho relies upon a partnership between the Division of Purchasing, within the Department of Administration, and the contracting agency; and

WHEREAS, the Office of Performance Evaluations (OPE) reported to the Joint Legislative Oversight Committee (JLOC) on January 21, 2013, on contract management in Idaho; and

WHEREAS, OPE found that Idaho's structure for contract management could be improved in protecting the state's interests in two key areas, training and monitoring; and

WHEREAS, OPE reported that contract training among agencies is inconsistent and that Idaho provides no formal framework for contract monitoring; and

WHEREAS, according to the OPE report, most agencies are not required to receive any training on how to develop contracts, monitor them once awarded or close them out once complete; and

WHEREAS, in its survey of agency staff who are involved in at least some aspect of contract management, OPE found that staff listed additional training as a primary means to improve the contracting process in Idaho; and

WHEREAS, within Idaho's existing statutory structure, the Division of Purchasing lacks the authority to expand its role and begin formally partnering with agencies to monitor contracts; and

WHEREAS, OPE reported that the absence of a requirement for state-level oversight in the contract monitoring process leaves agencies open to risk; and

WHEREAS, according to the OPE report, dedicated contract monitoring staff within the Division of Purchasing could not only help increase the capacity of agencies to manage their contracts but also help reduce the likelihood of major contract problems such as delays or unacceptable deliverables.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature calls for the Department of Administration to develop a plan to respond to the OPE report; e.g. to improve the development, management and reporting of contracts using best practices; to train and certify contract development and management personnel for state government; and to review its database of contracts administered through the Division of Purchasing to improve monitoring of such contracts.

BE IT FURTHER RESOLVED that components of the plan should include, but are not limited to, a best practices checklist, a training program to develop qualified requests for proposal (RFP) development experts and contract managers, project risk management and risk mitigation activities and other best practices to improve the efficiency and performance of contracts in Idaho.

BE IT FURTHER RESOLVED that the Division of Purchasing should develop a plan to identify and outline the role of project managers within agencies as it relates to contract management and coordination with the Division of Purchasing.

BE IT FURTHER RESOLVED that the Department of Administration shall report to the Legislature on or before January 31, 2014, on its plan for improved contract management and any progress that such plan has achieved.

Adopted by the House March 14, 2013

Adopted by the Senate March 28, 2013

(H.C.R. No. 19)

#### A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND ENCOURAGING THE INCLUSION OF NUTRITION SERVICES AS AN INTEGRAL COMPONENT IN THE PREVENTION AND TREATMENT OF CHRONIC DISEASE.

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

WHEREAS, nearly 62% of Idaho's adult residents are overweight or obese due to poor nutrition and physical inactivity, putting them at risk for costly chronic diseases, such as diabetes, heart disease and obesity-related cancers; and

WHEREAS, a reduction in the average Body Mass Index (BMI) by five percent in Idaho's citizens could lead to health care savings of more than one billion dollars in ten years and three billion dollars in twenty years; and

WHEREAS, nutrition and wellness classes provided by registered dietitians have resulted in positive outcomes in BMI, blood sugars and reduction of heart disease risk throughout Idaho; and

WHEREAS, registered dietitians in Idaho collaborate with other medical professionals to deliver Medical Nutrition Therapy (MNT), ensuring a patient's overall health with an emphasis on prevention, improved clinical outcomes and reducing health care costs; and

WHEREAS, according to the Institute of Medicine, "the registered dietitian is currently the single identifiable group of health-care professionals with standardized education, clinical training, continuing education and national credentialing requirements necessary to be directly reimbursed as a provider of nutrition therapy."; and

WHEREAS, registered dietitians work in a variety of professions and locations throughout Idaho in the private and public sector and are trained medical professionals who are licensed through the Idaho State Board of Medicine.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and

the Senate concurring therein, that the Legislature finds that registered dietitians can help the people of Idaho in the selection of nutritious foods, including Idaho food products, prevent and manage diseases through MNT and counseling, and provide nutrition education in schools, workplaces, clinics and other venues.

BE IT FURTHER RESOLVED that by providing MNT and professional nutrition counseling by Idaho registered dietitians in conjunction with existing services covered by insurance carriers, there will be a significant impact on chronic disease management, along with significant health care cost savings in the State of Idaho.

Adopted by the House March 14, 2013

Adopted by the Senate March 20, 2013

(H.C.R. No. 20)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN FINAL RULE OF THE STATE ATHLETIC COMMISSION RELATING TO RULES OF THE STATE ATHLETIC COMMISSION.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain final rule of the State Athletic Commission relating to Rules of the State Athletic Commission is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 03.01.01, State Athletic Commission, Rules of the State Athletic Commission, final rule Section 107, Subsection 07, only, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the House March 11, 2013

Adopted by the Senate March 28, 2013

(H.C.R. No. 21)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF THE PROCESS OF THE STATE ACQUIRING TITLE TO AND CONTROL OF PUBLIC LANDS CONTROLLED BY THE FEDERAL GOVERNMENT IN THE STATE OF IDAHO.

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

WHEREAS, accurate information is needed before the Idaho Legislature can properly address the issue of the management and control of public lands now controlled by the federal government in the State of Idaho should title to those public lands be transferred to the State of Idaho; and

WHEREAS, a process for the State of Idaho to receive title to public lands from the United States and a process of how the state may transfer title to any public lands that it receives needs to be developed; and

WHEREAS, management priorities on public lands need to be developed for both the State of Idaho and local entities; and

WHEREAS, legislation may need to be drafted to accomplish the above purposes.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study of the process for the State of Idaho to acquire title to and control of public lands controlled by the federal government. The Legislative Council shall determine the number of legislators and membership from each house appointed to the committee and shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the Legislature.

BE IT FURTHER RESOLVED that the committee shall issue a progress report to the Second Regular Session of the Sixty-second Idaho Legislature and the committee shall report its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Sixty-third Idaho Legislature.

BE IT FURTHER RESOLVED that nonlegislative members of the committee may be appointed by the cochairs of the committee who are appointed by the Legislative Council. Nonlegislative members of the advisory committee shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the committee's recommendations or proposed legislation.

Adopted by the House March 21, 2013

Adopted by the Senate April 2, 2013

(H.C.R. No. 22)

#### A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND DEMANDING THAT THE FEDERAL GOVERNMENT EXTINGUISH TITLE TO IDAHO'S PUBLIC LANDS AND TRANSFER TITLE TO THOSE LANDS TO THE STATE OF IDAHO.

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

WHEREAS, in 1780, the United States Congress resolved that "the unappropriated lands that may be ceded or relinquished to the United States, by any particular states, pursuant to the recommendation of Congress of the 6 day of September last, shall be granted and disposed of for the common benefit of all the United States that shall be members of the federal union, and be settled and formed into distinct republican states, which shall become members of the federal union, and have the same rights of sovereignty, freedom and independence, as the other states: and that upon such cession being made by any State and approved and accepted by Congress, the United States shall guaranty the remaining territory of the said States respectively. (Resolution of Congress, October 10, 1780)"; and

WHEREAS, the territorial and public lands of the United States are dealt with in Clause 2, Section 3, Article IV, of the United States Constitution, referred to as the Property Clause, which states, "The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States."; and

WHEREAS, with this clause, the Constitutional Convention agreed that the Constitution would maintain the "status quo" that had been established with respect to the federal territorial lands being disposed of only to create new states with the same rights of sovereignty, freedom and independence as the original states; and

WHEREAS, under these express terms of trust, the land claiming states, over time, ceded their western land to their confederated union and retained their claims that the confederated government dispose of such lands only to

create new states "and for no other use or purpose whatsoever" and apply the net proceeds of any sales of such lands only for the purpose of paying down the public debt; and

WHEREAS, with respect to the disposition of the federal territorial lands, the Northwest Ordinance of July 13, 1787, provides, "The legislatures of those districts or new States, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers"; and

WHEREAS, by resolution in 1790, the United States Congress declared "That the proceeds of sales which shall be made of lands in the Western territory, now belonging or that may hereafter belong to the United States, shall be, and are hereby appropriated towards sinking or discharging the debts for the payment whereof the United States now are, or by virtue of this act may be holden, and shall be applied solely to that use, until the said debt shall be fully satisfied"; and

WHEREAS, the intent of the founding fathers to eventually extinguish title to all public lands was reaffirmed by President Andrew Jackson in a message to the United States Senate on December 4, 1833, where he explained the reasons he vetoed a bill entitled "An act to appropriate for a limited time the proceeds of the sales of the public lands of the United States and for granting lands to certain States": "I do not doubt that it is the real interest of each and all the States in the Union, and particularly of the new States, that the price of these lands shall be reduced and graduated, and that after they have been offered for a certain number of years the refuse remaining unsold shall be abandoned to the States and the machinery of our land system entirely withdrawn. It can not be supposed the compacts intended that the United States should retain forever a title to lands within the States which are of no value, and no doubt is entertained that the general interest would be best promoted by surrendering such lands to the States"; and

WHEREAS, in 1828, United States Supreme Court Chief Justice John Marshall, in *American Ins. Co. v. 356 Bales of Cotton*, 26 U.S. 511 (1828), confirmed that no provision in the Constitution authorized the federal government to indefinitely exercise control over western public lands beyond the duty to manage these lands pending the disposal of the lands to create new states when he said, "At the time the Constitution was formed, the limits of the territory over which it was to operate were generally defined and recognised [sic]. These limits consisted in part, of organized states, and in part of territories, the absolute property and dependencies of the United States. These states, this territory, and future states to be admitted into the Union, are the sole objects of the Constitution; there is no express provision whatever made in the Constitution for the acquisition or government of territories beyond those Limits."; and

WHEREAS, in 1833, referring to these land cession compacts which arose from the original 1780 congressional resolution, President Andrew Jackson stated, "These solemn compacts, invited by Congress in a resolution declaring the purposes to which the proceeds of these lands should be applied, originating before the constitution, and forming the basis on which it was made, bound the United States to a particular course of policy in relation to them by ties as strong as can be invented to secure the faith of nations" (Land bill veto, December 5, 1833); and

WHEREAS, the United States Supreme Court, in *State of Texas v. White*, 74 U.S. 700 (1868), clarified that a state, by definition, includes a defined sovereign territory, stating that "State," in the constitutional context, is "a political community of free citizens, occupying a territory of defined boundaries, and organized under a government sanctioned and limited by a written constitution, and established by the consent of the governed,"



and added, "This is undoubtedly the fundamental idea upon which the republican institutions of our own country are established"; and

WHEREAS, in *Shively v. Bowlby*, 152 U.S. 1 (1894), the United States Supreme Court confirmed that all federal territories, regardless of how acquired, are held in trust to create new states on an equal footing with the original states when it stated, "Upon the acquisition of a Territory by the United States, whether by cession from one of the States, or by treaty with a foreign country, or by discovery and settlement, the same title and dominion passed to the United States, for the benefit of the whole people, and in trust for the several States to be ultimately created out of the Territory."; and

WHEREAS, the United States Supreme Court has affirmed that the federal government must honor its trust obligation to extinguish title to the public lands for the sovereignty of the new state to be complete, stating once, "the United States shall have fully executed these trusts, the municipal sovereignty of the new states will be complete, throughout their respective borders, and they, and the original states, will be upon an equal footing, in all respects . . ." (*Pollard v. Hagan*, 44 U.S. 212 (1845)); and

WHEREAS, the enabling acts of the new states west of the original colonies established the terms upon which all such states were admitted into the union, and contained the same promise to all new states that the federal government would extinguish title to all public lands lying within their respective borders; and

WHEREAS, the United States Supreme Court looks upon the enabling acts which create new states as "solemn compacts" and "bilateral (two-way) agreements" to be performed "in a timely fashion"; and

WHEREAS, Section 19, Article XXI, of the Constitution of the State of Idaho provides "... And the people of the State of Idaho do agree and declare that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indians or Indian tribes; and until the title thereto shall have been extinguished by the United States, the same shall be subject to the disposition of the United States"; and

WHEREAS, the trust obligation of the federal government to timely extinguish title of all public lands lying within the boundaries of the State of Idaho is made even more clear in Section 7 of Idaho's Admissions Act, "Five percent of the proceeds of the sales of public lands lying within said state which shall be sold by the United States subsequent to the admission of said state into the union after deducting all the expenses incident to the same shall be paid to the said state, to be used as a permanent fund, the interest of which only shall be expended for the support of the common schools within said state"; and

WHEREAS, the federal government confirmed its trust obligation to timely extinguish title to all public lands lying within the boundaries of the State of Idaho by and through the 1934 Taylor Grazing Act, which declared that the act was established "In order to promote the highest use of the public lands pending its final disposal"; and

WHEREAS, in 1976, after nearly 200 years of trust history regarding the obligation of Congress to extinguish title of western lands to create new states and use the proceeds to discharge its public debts, the United States Congress purported to unilaterally change this solemn promise by and through the Federal Land Policy Management Act (FLPMA), which provides, in part, "The Congress declares that it is the policy of the United States that the public lands be retained in Federal ownership, unless it is determined that disposal of a particular parcel will serve the federal interest"; and

WHEREAS, at the time of the Idaho Admissions Act, the course and practice of the United States Congress with all prior states admitted to the union had been to fully extinguish title, within a reasonable time, to all lands within the boundaries of such states, except for those Indian lands,

or lands otherwise expressly reserved to the exclusive jurisdiction of the United States; and

WHEREAS, the State of Idaho did not, and could not have, contemplated or bargained for the United States failing or refusing to abide by its solemn promise to extinguish title to all lands within its defined boundaries within a reasonable time such that the State of Idaho and its permanent fund for its common schools could never realize the bargained-for benefit of the deployment, taxation or economic benefit of all the lands within its defined boundaries; and

WHEREAS, from 1780 forward, the federal government only held bare legal title to the western public lands in the nature of a trustee in trust with the solemn obligation to timely extinguish title to such lands to create new states and to use the proceeds to pay the public debt; and

WHEREAS, the federal government complied with its promise and solemn obligation to imminently transfer title of public lands lying within the boundaries of all states to the eastern edge of the State of Colorado and also with the State of Hawaii; and

WHEREAS, by the terms of Idaho's Admissions Act and State Constitution, Idaho suspended its sovereign right to eventually tax the public lands within its borders, pending final disposition of the public lands; and

WHEREAS, the federal government has repeatedly and persistently failed to honor its promises and has refused to abide by the terms of its preexisting solemn obligations to imminently extinguish title to all public lands; and

WHEREAS, had Congress honored its promise to Idaho to timely extinguish title to all public lands within Idaho's boundaries, Idaho would have had sovereign control over lands within its borders; and

WHEREAS, Congress, by and through FLPMA, unilaterally altered its duty in 1976 to extinguish title to all public lands within Idaho's borders by committing to a policy of retention and a process of comprehensive land management and planning coordinated between the federal government, the states and local governing bodies for access, multiple use and sustained yield of the public lands; and

WHEREAS, despite the fact that the federal government had not divested all public lands within Idaho's borders by 1976, this did not alleviate the federal government from its duty to extinguish title and divest itself of federal ownership of remaining public land in Idaho by ceding such land directly to the state as it did with other states; and

WHEREAS, since the passage of FLPMA, the federal government has engaged in a persistent pattern and course of conduct in direct violation of the letter and spirit of FLPMA through an abject disregard of local resource management plans, failure and refusal to coordinate and cooperate with the state and local governments, unilateral and oppressive land control edicts to the severe and extreme detriment of the state and its ability to adequately fund education, provide essential government services, secure economic opportunities for wage earners and Idaho business, and ensure a stable, prosperous future; and

WHEREAS, under the United States Constitution, the American states reorganized to form a more perfect union, yielding up certain portions of their sovereign powers to the elected officers of the government of their union, yet retaining the residuum of sovereignty for the purpose of independent internal self-governance; and

WHEREAS, by compact between the original states, territorial lands were divided into "suitable extents of territory" and upon attaining a certain population, were to be admitted into the union upon "an equal footing" as members possessing "the same rights of sovereignty, freedom and independence" as the original states; and

WHEREAS, the federal trust respecting public lands obligates the United States, through their agent, Congress, to extinguish both their government

jurisdiction and their title on the public lands that are held in trust by the United States for the states in which they are located; and

WHEREAS, the state and federal partnership of public lands management has been eroded by an oppressive and overreaching federal management agenda that has adversely impacted the sovereignty and the economies of the State of Idaho and local governments; and

WHEREAS, federal land management actions, even when applied exclusively to federal lands, directly impact the ability of the State of Idaho to manage its school trust lands in accordance with the mandate of the Idaho Admissions Act and to meet its obligation to the beneficiaries of the trust; and

WHEREAS, Idaho has been substantially damaged in its ability to provide funding for education and the common good of the state and to serve a sustainable, vibrant economy into the future because the federal government has unduly retained control of nearly two-thirds of the lands lying within Idaho's borders; and

WHEREAS, Idaho consistently ranks high among all the states in class size and low in the nation in per pupil spending for education; and

WHEREAS, had the federal government disposed of the land in or about 1890, Idaho would have, from that point forward, generated substantial tax revenues and revenues from the sustainable managed use of its natural resources to the benefit of its public schools and to the common good of the state and nation; and

WHEREAS, the federal government gives Idaho less than one-half of the net proceeds of mineral lease revenues and severance taxes generated from the lands within Idaho's borders; and

WHEREAS, Idaho has been substantially damaged in mineral lease revenues and severance taxes in that, had the federal government extinguished title to all public lands, Idaho would realize one hundred percent of the mineral lease revenues and severance taxes from the lands; and

WHEREAS, the Bureau of Land Management's (BLM) failure to act affirmatively on definitive allocation decisions of multiple use activities in resource management plans has created uncertainty in the future of public land use in Idaho and has caused capital to flee the state; and

WHEREAS, the United States Army Corps of Engineers is proposing to extend its jurisdiction to regulate the waters of the United States to areas traditionally dry, except during severe weather events, in violation of the common definition of jurisdictional water; and

WHEREAS, the United States Fish and Wildlife Service is making decisions concerning various species on BLM lands under the provisions of the Endangered Species Act without serious consideration of state wildlife management activities and protection designed to prevent the need for a listing, or recognizing the ability to delist a species, thereby affecting the economic vitality of the state and local region; and

WHEREAS, the BLM has not authorized all necessary rangeland improvement projects involving the removal of pinyon-juniper and other climax vegetation, thereby reducing the biological diversity of the range, reducing riparian viability and water quality and reducing the availability of forage for both livestock and wildlife; and

WHEREAS, Idaho initially supported placing into reserve the various national forests in the state, because Idaho was promised this action would preserve the forest lands as watersheds and for agricultural use, namely timber and other wood products, and grazing; and

WHEREAS, this vision and promise of agricultural production on the forest lands is the reason that the United States Forest Service was made part of the United States Department of Agriculture as opposed to the Department of the Interior; and

WHEREAS, the promise of preservation for agricultural use has been broken by recent administrations; and

WHEREAS, logging, timber and wood products operations on Idaho's national forests have come to a virtual standstill, resulting in forests that are choked with old growth monocultures, loss of aspen diversity, loss of habitat and a threat to community watersheds due to insect infestation and catastrophic fire; and

WHEREAS, these conditions are the result of a failure to properly manage the forest lands for their intended use, which is responsible and sustained timber production, watersheds and grazing; and

WHEREAS, the only remedy for federal government breaches of Idaho's Admissions Act and breaches to the spirit and letter of the promises of FLPMA is for the State of Idaho to take back title and management responsibility of federally managed public lands, which would restore the promises in the solemn compact made at statehood; and

WHEREAS, under Clause 17, Section 8, Article I, of the United States Constitution, the federal government is only constitutionally authorized to exercise jurisdiction over and above bare right and title over lands that are "purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings"; and

WHEREAS, the United States Supreme Court affirmed that the federal government only holds lands as a mere "ordinary proprietor" and cannot exert jurisdictional dominion and control over public lands without the consent of the state Legislature, stating, "Where lands are acquired without such consent, the possession of the United States, unless political jurisdiction be ceded to them in some other way, is simply that of an ordinary proprietor (emphasis added). The property in that case, unless used as a means to carry out the purposes of the government, is subject to the legislative authority and control of the states equally with the property of private individuals." (Ft. Leavenworth R. Co. v. Lowe, 114 U.S. 525 (1885)); and

WHEREAS, citizens of the State of Idaho have a love of the land and have demonstrated responsible stewardship of lands within state jurisdiction; and

WHEREAS, the State of Idaho is willing to sponsor, evaluate and advance the locally driven efforts in a more efficient manner than the federal government, to the benefit of all users, including recreation, conservation and the responsible and sustainable management of Idaho's natural resources; and

WHEREAS, the State of Idaho has a proven regulatory structure to manage public lands for multiple use and sustainable yield; and

WHEREAS, the United States Congress disposed of lands within the boundaries of the states of Tennessee and Hawaii directly to those states; and

WHEREAS, because of the entanglements and rights arising over the 122 years that the federal government has failed to honor its promise to timely extinguish title to public lands and because of the federal government's breach of Idaho's Admissions Act and breach of FLPMA, among other promises made, and the damages resulting from such breaches, the United States Congress should imminently transfer title to all public lands lying within the State of Idaho directly to the State of Idaho, as it did with Hawaii and Tennessee; and

WHEREAS, the Legislature of the State of Idaho, upon transfer of title by the federal government of the public lands directly to the state, intends to cede the national park land to the federal government on condition that the lands permanently remain national park lands, that they not be sold, transferred, left in disrepair, or conveyed to any party other than the State of Idaho; and

WHEREAS, the Legislature of the State of Idaho, upon transfer of title by the federal government of the public lands directly to the state, intends to cede to the federal government all lands currently designated as part of the National Wilderness Preservation System pursuant to the Wilderness Act

of 1964, National Monuments, Department of Defense lands and Department of Energy reservations on the condition that they not be sold, transferred, left in disrepair or conveyed to any party other than the State of Idaho; and

WHEREAS, in order to effectively address the accumulated entanglements and expectations over Idaho's public lands, including open space, access, multiple use and the management of sustainable yields of Idaho's natural resources, an Interim Public Lands Study Committee should be formed to review how to manage multiple use of the public lands and to determine, through a public process, the extent to which public land may be sold, if any; and

WHEREAS, to the extent that the Interim Public Lands Study Committee determines through a public process that any such land should be sold to private owners, five percent of the net proceeds should be paid to the Public School Endowment Fund and ninety-five percent of the net proceeds should be paid to the federal government to pay down the federal debt; and

WHEREAS, Section 19, Article XXI, of the Constitution of the State of Idaho provides that Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States, Idaho disclaims any title to such land and will observe all treaty rights.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that in order to provide a fair, justified and equitable remedy for the federal government's past and continuing breaches of its solemn promises to the State of Idaho as set forth in this resolution and to provide for the sufficient and necessary funding of Idaho's public education system, the Legislature of the State of Idaho demands that the federal government imminently transfer title to all of the public lands within Idaho's borders directly to the State of Idaho.

BE IT FURTHER RESOLVED that the Legislature of the State of Idaho urges the United States Congress in the most strenuous terms to engage in good faith communication, cooperation, coordination and consultation with the State of Idaho regarding the transfer of public lands directly to the State of Idaho.

BE IT FURTHER RESOLVED that, upon transfer of the public lands directly to the State of Idaho, the Legislature intends to affirmatively cede the national park lands to the federal government, under Clause 17, Section 8, Article I, of the United States Constitution, on condition that the lands permanently remain national park lands, that they not be sold, transferred, left in substantial disrepair or conveyed to any party other than the State of Idaho.

BE IT FURTHER RESOLVED that, upon transfer of the public lands directly to the State of Idaho, the Legislature intends to affirmatively cede to the federal government all lands currently designated as part of the National Wilderness Preservation System pursuant to the Wilderness Act of 1964, National Monuments, Department of Defense lands and Department of Energy reservations on condition that they not be sold, transferred, left in substantial disrepair or conveyed to any party other than the State of Idaho.

BE IT FURTHER RESOLVED that the Legislature calls for the creation of an Interim Public Lands Study Committee to review how to manage access, open space, sustainable yields and the multiple use of the public lands and to determine, through a public process, the extent to which public land may be sold.

BE IT FURTHER RESOLVED that, to the extent that the Interim Public Lands Study Committee determines through a public process that any such land should be sold to private owners, five percent of the net proceeds should be paid to the Public School Endowment Fund and ninety-five percent should be paid to the Bureau of the Public Debt to pay down the federal debt.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the United States Department of the Interior, the United States Department of Agriculture, the Majority Leader of the United States Senate, the Speaker

of the United States House of Representatives, the members of Idaho's congressional delegation, and the Governors, Senate Presidents and Speakers of the House of the forty-nine other states.

Adopted by the House March 21, 2013

Adopted by the Senate April 2, 2013

(H.C.R. No. 23)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE DIVISION OF BUILDING SAFETY RELATING TO RULES CONCERNING UNIFORM PLUMBING CODE.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Division of Building Safety relating to Rules Concerning Uniform Plumbing Code is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 07.02.06, Division of Building Safety, Rules Concerning Uniform Plumbing Code, Section 011, Subsection 09, only, adopted as a pending rule under Docket Number 07-0206-1201, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the House March 12, 2013

Adopted by the Senate March 25, 2013

(H.C.R. No. 25)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND RECOGNIZING AND CONGRATULATING OWYHEE COUNTY AND ITS RESIDENTS FOR THE COUNTY'S SESQUICENTENNIAL ANNIVERSARY.

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

WHEREAS, the county of Owyhee was established on December 31, 1863, with the approval and signature of acting Governor W. B. Daniels, soon after the formation of the Idaho Territory by Abraham Lincoln and is celebrating its Sesquicentennial Anniversary this year; and

WHEREAS, Owyhee County was named for three Hawaiian (Kanaka) trappers who mysteriously disappeared in the area while working for fur trapper Donald McKenzie in 1818, with the county seat initially located at Ruby City, moved to Silver City in 1867, and finally to Murphy in 1934; and

WHEREAS, Owyhee County has historical mining significance in the state, with the gold/silver rush happening in and around the Silver City area, as well as the ranching, sheep herding and farming communities that have grown up around it and are the backbone of the county's economy today. The gold/silver rush of Owyhee County started May 18, 1863, with the discovery of gold by a group of twenty-nine men led by Michael Jordan. The county is also home to the Austrian Settlement, a group of people from Slovenia and Germany who developed and settled lands south of Homedale, Idaho, in 1914, many of which are still in existence today; and

WHEREAS, Owyhee County is recognized across the State of Idaho for its historic preservation efforts, namely the Silver City Historic District, which is a growing tourist attraction, as well as the Oreana Catholic Church and many others. The county is also home to many other tourist attractions, including archaeology sites at Camas and Pole Creeks and the Guffey Butte-Black Butte Archaeology District; architecture sites at Bruneau Episcopal Church and the Owyhee County Courthouse; the historic districts of Silver City and DeLamar; the military sites of Camp Lyon and Camp Three Forks; and the stage stations of Poison Creek Stage Station and Wickahony Post Office and Stage Station. Finally, Owyhee County is home to other tourist sites, including the Bruneau Sand Dunes, the Bruneau Observatory, Emu-Z-Um near Grandview, Our Lady Queen of Heaven Catholic Church in Oreana, the Swan Falls Dam and Power Plant, the Owyhee County Historical Museum in Murphy, the Bernard Ferry, Noble Horse Barn, the southern "dry" route of the Oregon Trail, Givens Hot Springs, the Gusman Ranch near Jordan Valley, Oregon, and many parks and festivals in the Marsing/Homedale area; and

WHEREAS, Owyhee County is the second largest county in the State of Idaho, with a large multitude of deer, elk, antelope, game birds, fish and other wildlife used for hunting, fishing and observation. The county is also an attractive recreational area used for horseback riding, motorcycling, four wheeling, camping, hiking, swimming and much more; and

WHEREAS, the Owyhee County Historical Museum, in conjunction with the Owyhee County Historic Preservation Commission, will kick off the Sesquicentennial Celebration on June 1, 2013, during the Owyhee County Historical Museum annual Outpost Days event, which will feature special performances about the foundation of the county and the sale of the "Owyhee Outpost," a historical journal with a detailed description of the county's founding, and an interactive display located in the museum.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we hereby recognize and congratulate Owyhee County and its residents for Owyhee County's Sesquicentennial Anniversary on December 31, 2013.

Adopted by the House March 14, 2013

Adopted by the Senate March 26, 2013

(H.C.R. No. 26)

#### A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF POTENTIAL APPROACHES TO PUBLIC DEFENSE REFORM.

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

WHEREAS, the responsibility of providing counsel to those constitutionally entitled to representation at public expense is currently borne by the counties; and

WHEREAS, though the State of Idaho may delegate certain obligations imposed by the Idaho Constitution to the counties, it must do so in a manner that does not abdicate the constitutional duty; and

WHEREAS, for the past three years, the Idaho Criminal Justice Commission's Public Defense Subcommittee has committed itself to the task of identifying deficiencies in Idaho's public defense system and developing recommendations for public defense reform; and

WHEREAS, the Idaho Criminal Justice Commission's Public Defense Subcommittee has identified deficiencies in Idaho's public defense system. Such deficiencies include, but are not limited to: a lack of uniformity in

indigency determination, appointment and waiver of counsel, contribution and recoupment practices, public defense contracting practices and data reporting; excessive caseloads and workloads; a lack of independence of the public defense function; a lack of training and resources for attorneys providing public defense services, particularly in the areas of juvenile defense, child protection and mental health commitment; the existence of flat fee contracts for public defense services; and county commissioners' lack of access to information and resources to assist in the provision of public defense; and

WHEREAS, the Idaho Criminal Justice Commission's Public Defense Subcommittee's analysis of nationwide approaches to addressing such deficiencies shows that the most significant trend has been toward state oversight of the public defense system that includes statewide standards and, in many instances, state moneys; and

WHEREAS, the Idaho Criminal Justice Commission's Public Defense Subcommittee has narrowed its efforts to consideration of a public defense model where, although public defense delivery at the trial level would remain primarily funded and administered at the county level, the authority for a public defense system would be statutorily delegated to an independent commission authorized to promulgate and enforce certain rules and standards with which counties are required to comply, including: statewide training and continuing legal education requirements for public defense attorneys; data reporting requirements; requirements relating to contracts entered into between counties and private providers of public defense services; standards for the qualification of public defense attorneys; and caseload and workload standards for public defense attorneys; and

WHEREAS, the Idaho Criminal Justice Commission's Public Defense Subcommittee has also considered a public defense model where the counties' statutory authority to provide for counsel at public expense would be limited to the creation of an office of public defender and a requirement that each county participate in a statewide association of public defense attorneys.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study of potential approaches to public defense reform including, but not limited to: the creation, funding and implementation of a public defense commission; and requirements that counties operate offices of public defenders and join a statewide association of public defense attorneys. The committee shall consist of ten legislators, with five from the Senate and five from the House of Representatives. The Legislative Council shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the Legislature.

BE IT FURTHER RESOLVED that the cochairmen of the committee are authorized to appoint advisors with technical expertise in the area of public defense and are expected to receive input from stakeholders in the criminal justice system of Idaho.

BE IT FURTHER RESOLVED that any advisors to the committee who are not legislative members shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges.

BE IT FURTHER RESOLVED that the commission shall report its findings, recommendations and proposed legislation, if any, to the Second Regular Session of the Sixty-second Idaho Legislature.

Adopted by the House March 21, 2013

Adopted by the Senate March 27, 2013



(H.C.R. No. 27)

## A CONCURRENT RESOLUTION

PROVIDING FOR PRINTING THE SESSION LAWS, FIXING THE PRICE FOR PRINTING THE SAME, AND THE PRICE WHICH THE PUBLIC SHALL BE CHARGED FOR COPIES OF THE SESSION LAWS.

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

WHEREAS, Section 67-904, Idaho Code, has made provisions for the printing of the Session Laws.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, in accordance with a written contract duly made and entered into by the Speaker of the House of Representatives and the President Pro Tempore of the Senate and the House Judiciary, Rules, and Administration Committee and the Senate Judiciary and Rules Committee of the Legislature of the State of Idaho, hereinafter referred to as the Joint Printing Committee, that the contract for the printing of the Session Laws of the First Regular Session and any Extraordinary Sessions of the Sixty-second Idaho Legislature in accordance with the provisions of law and in accordance with the written contract between the Speaker of the House of Representatives and the President Pro Tempore of the Senate and the Joint Printing Committee as party of the first part, and THE CAXTON PRINTERS, LTD., Caldwell, Idaho, as party of the second part, be, and the same is hereby ratified and confirmed, and is incorporated herein and made a part of the resolution, in words and figures following, to wit:

## PRINTING CONTRACT

THIS AGREEMENT, made and entered into the 15th day of March, 2013, by and between the Speaker of the House of Representatives and the President Pro Tempore of the Senate and the Joint Printing Committee, hereinafter referred to as party of the first part, and THE CAXTON PRINTERS, LTD., Caldwell, Idaho, hereinafter referred to as party of the second part:

## WITNESSETH:

That pursuant to a resolution of said party of the first part and written quotation submitted to the said party of the first part by the party of the second part, a contract for legislative printing is hereby awarded to said THE CAXTON PRINTERS, LTD., as follows:

## SESSION LAWS

## FIRST REGULAR SESSION

## AND ANY EXTRAORDINARY SESSIONS

## SIXTY-SECOND LEGISLATURE

As outlined in the February 8, 2013, quote of the party of the second part, the Session Laws will be printed and charged at a price per page not to exceed seventeen dollars and forty-five cents (\$17.45) based on incremental numbers of copies ordered. The number of copies to be supplied under this contract shall be specified at the time of order. The charge for individually binding the books shall not exceed eleven dollars and fifty cents (\$11.50) per volume based on the number of copies ordered. The party of the second part shall provide additional copies to be made available for sale to the general public, and based on the number of copies ordered by the party of the first part, the price to the general public shall not exceed fifty dollars (\$50.00) for single volumes and sixty-three dollars (\$63.00) per set of two volumes if a second volume is required. The Session Laws of any Extraordinary Session adjourned prior to June 1, 2013, shall be included in the Session Laws of the First Regular Session. No charge shall be made by the party of the second part for proofreading or blank pages.

IT IS AGREED between the parties hereto that all of said printing shall be done in the form and manner as submitted in the quote of the party of the

second part dated February 8, 2013, in compliance with the statutes of the State of Idaho where not otherwise provided, such statutes shall be controlling.

IT IS FURTHER AGREED that said Session Laws shall be printed, delivered and be ready for distribution by the Secretary of State in conformity with the provisions of Section 67-904, Idaho Code, which section is hereby referred to and by such reference made a part of this contract as though set forth herein at length.

IN WITNESS WHEREOF, the party of the second part has caused these presents to be executed by its proper official, and the party of the first part, by Concurrent Resolution, has caused these presents to be executed by its proper officials.

Party of the First Part

By /s/ Scott Bedke

SCOTT BEDKE, Speaker of the House

HOUSE JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

By /s/ Rich Wills

RICH WILLS, Chairman

By /s/ Brent Hill

BRENT HILL, President Pro Tempore

SENATE JUDICIARY AND RULES COMMITTEE

By /s/ Patti Anne Lodge

PATTI ANNE LODGE, Chairman

Party of the Second Part

THE CAXTON PRINTERS, LTD.

By /s/ Dave Gipson

DAVE GIPSON, President

Adopted by the House March 19, 2013

Adopted by the Senate March 25, 2013

(H.C.R. No. 29)

## A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND RECOGNIZING THE IDAHO PUBLIC UTILITIES COMMISSION ON ITS ONE HUNDREDTH ANNIVERSARY.

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

WHEREAS, previous legislatures have deemed that the orderly and efficient development of statewide electric, gas, rail and telecommunication infrastructures are dependent on the existence of regulated public utility service providers; and

WHEREAS, the Idaho Public Utilities Commission (PUC) was created to regulate Idaho's investor-owned electric, natural gas, telecommunications and water utilities in order to ensure adequate service at just, reasonable and sufficient rates; and

WHEREAS, the Idaho PUC also conducts inspection of natural gas pipelines and hazardous materials rail cars; and

WHEREAS, to help ensure that its decisions are fair and workable, the Idaho PUC employs a staff of about fifty people, including engineers, accountants, economists and investigators; and

WHEREAS, the Idaho PUC is the agency of the State of Idaho responsible to implement the federal Public Utility Regulatory Policies Act, encouraging the cost-effective development of customer-owned renewable generation and combined heat and power facilities; and

WHEREAS, the 2012 Idaho Energy Plan relies heavily on the expertise and diligence of the Idaho PUC to pursue essential public policies necessary to assure the future supply for affordable energy in Idaho; and

WHEREAS, the fields of energy, water and telecommunications regulated by the Idaho PUC have become increasingly sophisticated, involving technically complex issues, requiring staff to become accordingly proficient in these specialized fields; and

WHEREAS, the efficient and effective performance of Public Utilities Commission duties continues to contribute to Idaho's ability to finance and construct needed utility infrastructure; and

WHEREAS, the Public Utilities Commission of the State of Idaho, later renamed the Idaho Public Utilities Commission, was first organized on May 8, 1913.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the history and achievement of the Idaho Public Utilities Commission be recognized in this year of its one hundredth anniversary.

BE IT FURTHER RESOLVED that copies of this resolution be forward to Commissioner Paul Kjellander, Commissioner Marsha Smith and Commissioner Mack Redford.

Adopted by the House March 19, 2013

Adopted by the Senate March 25, 2013

(H.C.R. No. 30)

## A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND DECLARING THE MONTH OF NOVEMBER "PANCREATIC CANCER AWARENESS MONTH" IN IDAHO.

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

WHEREAS, pancreatic cancer is one of the deadliest cancers, is the fourth leading cause of cancer death in the United States and is the only

major cancer with a five year relative survival rate in the single digits at just 6%; and

WHEREAS, when symptoms of pancreatic cancer present themselves, it is late stage, and 74% of pancreatic cancer patients die within the first year of their diagnosis while 94% of pancreatic cancer patients die within the first five years; and

WHEREAS, the incidence and death rate for pancreatic cancer are increasing, and pancreatic cancer is anticipated to move from the fourth to the second leading cause of cancer death in the United States by 2020 and possibly as early as 2015; and

WHEREAS, the Federal Government invests significantly less money in pancreatic cancer research than it does in any of the other leading cancer killers, and pancreatic cancer research constitutes only approximately 2% of the National Cancer Institute's federal research funding, a figure far too low given the severity of the disease, its mortality rate and how little is known about how to arrest it; and

WHEREAS, the Pancreatic Cancer Action Network is the national organization serving the pancreatic cancer community in Idaho and nationwide through a comprehensive approach that includes public policy, research funding, patient services and public awareness and education related to developing effective treatments and a cure for pancreatic cancer; and

WHEREAS, the Pancreatic Cancer Action Network and its affiliates in Idaho support those patients currently battling pancreatic cancer as well as those who have lost their lives to the disease and are committed to nothing less than a cure; and

WHEREAS, the good health and well-being of the residents of Idaho are enhanced as a direct result of increased awareness about pancreatic cancer and research into early detection, causes and effective treatments.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the month of November is hereby declared as "Pancreatic Cancer Awareness Month" in Idaho.

Adopted by the House March 21, 2013

Adopted by the Senate March 26, 2013

(H.C.R. No. 31)

#### A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF NATURAL RESOURCE ISSUES.

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

WHEREAS, the First Regular Session of the Sixty-first Idaho Legislature adopted House Concurrent Resolution No. 3, which authorized the appointment of a committee to undertake and complete a two-year study of natural resource issues, including issues relating to water, throughout the State of Idaho; and

WHEREAS, the committee's official term expired on November 30, 2012, and numerous natural resource-related issues continue to pose concerns for the future of Idaho and the quality of life our citizens enjoy; and

WHEREAS, issues of continued concern include, but are not limited to, stabilization of the water distribution system, the status of aquifers throughout the state, management of wolves in Idaho and the study of the implementation of the Comprehensive Aquifer Management Plan for the Eastern Snake Plain Aquifer.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study of natural resource issues of importance to the State of Idaho. The committee shall consist of ten legislators, with five from the Senate and five from the House of Representatives. The Legislative Council shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the Legislature.

BE IT FURTHER RESOLVED that the Legislative Council is authorized to also appoint ad hoc legislative members to serve on the committee.

BE IT FURTHER RESOLVED that the cochairmen of the committee are authorized to appoint advisors with technical expertise in the water supply arena and are expected to receive input from stakeholders in the water rights system of Idaho to attempt to stabilize the water delivery system in this state.

BE IT FURTHER RESOLVED that any advisors to the committee who are not legislative members shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the committee's recommendations and proposed legislation.

BE IT FURTHER RESOLVED that the committee shall make a progress report to the Second Regular Session of the Sixty-second Idaho Legislature and shall make a report detailing its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Sixty-third Idaho Legislature.

Adopted by the House March 26, 2013

Adopted by the Senate April 1, 2013

(H.C.R. No. 32)

#### A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN FINAL RULES OF THE STATE TAX COMMISSION RELATING TO INCOME TAX ADMINISTRATIVE RULES.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain final rules of the State Tax Commission relating to Income Tax Administrative Rules are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 35.01.01, State Tax Commission, Income Tax Administrative Rules, final rule Section 033, Subsections 03, 04 and 05, only, be, and the same are hereby rejected and declared null, void and of no force and effect.

BE IT FURTHER RESOLVED that the State Tax Commission is hereby requested to promulgate rules that were in effect when the rules rejected by this resolution replaced them.

Adopted by the House March 26, 2013

Adopted by the Senate March 27, 2013

(H.C.R. No. 33)

## A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REQUESTING THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES TO APPOINT AN INTERIM COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF HOW TO IMPROVE AND STRENGTHEN IDAHO'S K-12 EDUCATIONAL SYSTEM.

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

WHEREAS, it is incumbent upon the Legislature to help move Idaho's K-12 education forward for our students, our educators and Idaho's businesses, colleges and universities; and

WHEREAS, our state's future is dependent upon an effective and efficient K-12 educational system that offers a quality education to all Idaho students; and

WHEREAS, achieving the common goal of a better educated citizenry requires collaboration between many partners including policymakers, educators, the business community, and non-profit and philanthropic organizations; and

WHEREAS, it is well understood that to effectively compete on a regional, national and global setting, Idaho students deserve nothing less than our best efforts to ensure they have access to a high quality K-12 educational system.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the President Pro Tempore of the Senate and the Speaker of the House of Representatives are hereby requested to appoint a committee to undertake and complete a study of how to improve and strengthen Idaho's K-12 educational system and all matters relating thereto. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall determine the number of legislators and membership from each house appointed to the committee and shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the Legislature.

BE IT FURTHER RESOLVED that the cochairmen of the committee are authorized to appoint advisors with expertise in education. Any advisors to the committee who are not legislative members shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the committee's recommendations and proposed legislation.

BE IT FURTHER RESOLVED that the committee shall report findings and recommended legislation, if any, to the Second Regular Session of the Sixty-second Idaho Legislature.

Adopted by the House March 26, 2013

Adopted by the Senate April 1, 2013

(H.C.R. No. 34)

## A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND ACKNOWLEDGING THE SERIOUSNESS OF ALZHEIMER'S DISEASE AND RELATED DEMENTIAS IN IDAHO BY ENDORSING THE IDAHO ALZHEIMER'S PLANNING GROUP'S STATEWIDE PLAN TO INCREASE PUBLIC AWARENESS AND ACCESS TO INFORMATION, TO PROVIDE SPECIFIC TRAINING FOR ALZHEIMER'S DISEASE AND RELATED DEMENTIAS, TO COORDINATE SUPPORT SERVICES FOR ALZHEIMER'S DISEASE AND RELATED DEMENTIAS, TO CREATE A POSITIVE REGULATORY AND FINANCIAL ENVIRONMENT AND TO DEVELOP AN ONGOING SOURCE OF DATA COLLECTION.

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

WHEREAS, some 26,000 Idahoans are currently diagnosed with Alzheimer's disease, and the number is projected to increase significantly through 2025; and

WHEREAS, Idaho is projected to have the fifth highest increase in people suffering from Alzheimer's disease among all of the United States over the next several years; and

WHEREAS, Alzheimer's disease is the only major cause of death that has a mortality rate that continues to increase; and

WHEREAS, Idaho's mortality rate from Alzheimer's disease is consistently higher than the national average; and

WHEREAS, 41% of Idahoans living in nursing homes have moderate to severe dementia; and

WHEREAS, the Idaho Alzheimer's Planning Group has developed a plan to address the problem of Alzheimer's disease and related dementias throughout the state; and

WHEREAS, the Idaho State Plan for Alzheimer's disease and related dementias is designed to help agencies, organizations and individuals develop specific programs and strategies to meet the needs of Alzheimer's patients, their families and caregivers at the state, regional and local levels.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the State of Idaho acknowledges the seriousness of the impact of Alzheimer's disease and related dementias upon the state and its people.

BE IT FURTHER RESOLVED that the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, endorse the Idaho Alzheimer's Planning Group's statewide plan for Alzheimer's disease and related dementias (ADRD) and its recommendations to increase public awareness about ADRD and provide information about the disease; to provide ADRD-specific training and education for providers and caregivers; to coordinate support services for ADRD patients, family members and caregivers; to create a positive regulatory and financial environment for addressing dementia related issues; and to develop an ongoing source of data collection on the needs of Idaho's ADRD patients, families and caregivers.

Adopted by the House March 28, 2013

Adopted by the Senate April 2, 2013

(H.C.R. No. 36)

## A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND COMMENDING THE GOVERNOR FOR THE ESTABLISHMENT OF THE LEADERSHIP IN NUCLEAR ENERGY COMMISSION TO SUSTAIN AND ENHANCE THE IDAHO NATIONAL LABORATORY AS A STATE ASSET.

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

WHEREAS, to ensure that the Idaho National Laboratory's status as the flagship research facility is maintained and enhanced, Idaho Governor C.L. "Butch" Otter established the Leadership in Nuclear Energy (LINE) Commission to make recommendations on policies and actions the state could undertake to support the long-term viability of the Idaho National Laboratory (INL); and

WHEREAS, the LINE Commission was a collaborative effort involving the Idaho Legislature, state and university officials and representatives from industry and the public; and

WHEREAS, from February 2012 to January 2013, the LINE Commission met and held public hearings throughout the state gathering testimony from the public and government, industry and technical experts to examine recent national developments as they relate to positioning Idaho and the lab going forward; and

WHEREAS, the LINE Commission's final report recognized that increasing pressure on federal budgets could lead to reduced funding for federal energy research and cleanup work across the national laboratory system, and the federal government's decision to withdraw its license application for a permanent nuclear waste repository at Yucca Mountain, which leaves spent nuclear fuel and high-level waste currently being stored at the INL with no place to go; and

WHEREAS, the final report from the LINE Commission also acknowledges aggressive and renewed efforts by other states to establish competencies that will compete with the INL and with programs offered by Idaho universities; and

WHEREAS, amidst these challenges, the LINE Commission identified six overarching recommendations to ensure the continued scientific, education and economic benefits of the INL to the state that include:

(1) Continue to work cooperatively with the United States Department of Energy and other impacted states to address remaining environmental risks and continue cleanup at the INL site; and

(2) Exercise leadership as the United States formulates federal energy and nuclear waste management policies; and

(3) Capitalize on Idaho's nuclear technology competencies by supporting the growth of existing nuclear businesses, the corresponding infrastructure and the attraction of new nuclear businesses; and

(4) Invest in its infrastructure to enable the INL and Idaho universities to successfully compete for United States and global research opportunities; and

(5) Develop and promote the Center for Advanced Energy Studies as a regional, national and global resource for nuclear energy research; and

(6) Strengthen and expand nuclear education and workforce training offerings; and

WHEREAS, Governor Otter recognized the need for continued leadership from the state to ensure the vitality of the INL and Idaho's growing nuclear industries sector and established a LINE 2.0 Commission on March 6, 2013, to continue the effort to capitalize on the INL and Idaho's nuclear competencies.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we hereby commend Governor Otter



for his leadership in the establishment of the original LINE Commission and for continuing its efforts with the creation of the LINE 2.0 Commission; and that the Idaho Legislature concurs with and endorses the six findings of the LINE Commission and recognizes that Idaho must continue to monitor, evaluate and, where appropriate, participate in national policy discussions that will have an impact on the INL and Idaho's nuclear sector; and the Idaho Legislature supports the critical work performed by the Idaho National Laboratory aimed at solving our state's and nation's most pressing energy, security and environmental challenges while actively involving all three of Idaho's universities in carrying out its mission.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives is hereby authorized and directed to forward a copy of this Resolution to the Governor of the State of Idaho.

Adopted by the House April 3, 2013

Adopted by the Senate April 3, 2013



# **CONSTITUTIONAL AMENDMENTS**

**Submitted for Vote at General Election  
November 6, 2012**



# SENATE JOINT RESOLUTIONS

(S.J.R. No. 102)

## A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 5, ARTICLE X, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO THE CONTROL OVER STATE PRISONS; TO PROVIDE THAT THE STATE BOARD OF CORRECTION SHALL HAVE THE CONTROL, DIRECTION AND MANAGEMENT OF ADULT FELONY PROBATION AND PAROLE; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

SECTION 1. That Section 5, Article X, of the Constitution of the State of Idaho be amended to read as follows:

Section 5. STATE PRISONS -- CONTROL OVER. The state legislature shall establish a nonpartisan board to be known as the state board of correction, and to consist of three members appointed by the governor, one member for two years, one member for four years, and one member for six years. After the appointment of the first board the term of each member appointed shall be six years. This board shall have the control, direction and management of the penitentiaries of the state, their employees and properties, and of adult felony probation and parole, with such compensation, powers, and duties as may be prescribed by law.

SECTION 2. The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Section 5, Article X, of the Constitution of the State of Idaho be amended to provide that the state board of correction shall have the control, direction and management of adult felony probation and parole?"

SECTION 3. The Legislative Council is directed to prepare the statements required by Section 67-453, Idaho Code, and file the same.

SECTION 4. The Secretary of State is hereby directed to publish this proposed constitutional amendment and arguments as required by law.

Approved at General Election, November 6, 2012.

# HOUSE JOINT RESOLUTIONS

(H.J.R. No. 2)

## A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE I, OF THE CONSTITUTION OF THE STATE OF IDAHO, BY THE ADDITION OF A NEW SECTION 23, ARTICLE I, TO PROVIDE THAT THE RIGHTS TO HUNT, FISH AND TRAP, INCLUDING BY THE USE OF TRADITIONAL METHODS, ARE A VALUED PART OF THE HERITAGE OF THE STATE OF IDAHO AND SHALL FOREVER BE PRESERVED FOR THE PEOPLE AND MANAGED THROUGH THE LAWS, RULES AND PROCLAMATIONS THAT PRESERVE THE FUTURE OF HUNTING, FISHING AND TRAPPING, TO PROVIDE THAT PUBLIC HUNTING, FISHING AND TRAPPING OF WILDLIFE SHALL BE A PREFERRED MEANS OF MANAGING WILDLIFE AND TO PROVIDE THAT THE RIGHTS SET FORTH DO NOT CREATE A RIGHT TO TRESPASS ON PRIVATE PROPERTY, SHALL NOT AFFECT RIGHTS TO DIVERT, APPROPRIATE AND USE WATER, OR ESTABLISH ANY MINIMUM AMOUNT OF WATER IN ANY WATER BODY, SHALL NOT LEAD TO A DIMINUTION OF OTHER PRIVATE RIGHTS, AND SHALL NOT PREVENT THE SUSPENSION OR REVOCATION, PURSUANT TO STATUTE ENACTED BY THE LEGISLATURE, OF AN INDIVIDUAL'S HUNTING, FISHING OR TRAPPING LICENSE; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

SECTION 1. That Article I, of the Constitution of the State of Idaho, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23, Article I, of the Constitution of the State of Idaho and to read as follows:

SECTION 23. THE RIGHTS TO HUNT, FISH AND TRAP. The rights to hunt, fish and trap, including by the use of traditional methods, are a valued part of the heritage of the State of Idaho and shall forever be preserved for the people and managed through the laws, rules and proclamations that preserve the future of hunting, fishing and trapping. Public hunting, fishing and trapping of wildlife shall be a preferred means of managing wildlife. The rights set forth herein do not create a right to trespass on private property, shall not affect rights to divert, appropriate and use water, or establish any minimum amount of water in any water body, shall not lead to a diminution of other private rights, and shall not prevent the suspension or revocation, pursuant to statute enacted by the

Legislature, of an individual's hunting, fishing or trapping license.

SECTION 2. The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Article I, of the Constitution of the State of Idaho be amended by the addition of a New Section 23, to provide that the rights to hunt, fish and trap, including by the use of traditional methods, are a valued part of the heritage of the State of Idaho and shall forever be preserved for the people and managed through the laws, rules and proclamations that preserve the future of hunting, fishing and trapping; to provide that public hunting, fishing and trapping of wildlife shall be a preferred means of managing wildlife; and to provide that the rights set forth do not create a right to trespass on private property, shall not affect rights to divert, appropriate and use water, or establish any minimum amount of water in any water body, shall not lead to a diminution of other private rights, and shall not prevent the suspension or revocation, pursuant to statute enacted by the Legislature, of an individual's hunting, fishing or trapping license?"

SECTION 3. The Legislative Council is directed to prepare the statements required by Section 67-453, Idaho Code, and file the same.

SECTION 4. The Secretary of State is hereby directed to publish this proposed constitutional amendment and arguments as required by law.

Approved at General Election, November 6, 2012.





# **PROPOSITIONS**

**Submitted for Vote at General Election  
November 6, 2012**



PROPOSITION NO. 01

**Short Ballot Title** Referendum to approve or reject legislation limiting negotiated agreements between teachers and local school boards and ending the practice of issuing renewable contracts.

**Long Ballot Title** Referendum to approve or reject S1108; relating to education: revising Idaho Code by amending 33-513, 33-514, 33-514A, 33-515, 33-515A, 33-516, 33-521, 33-522, 33-1003, 33-1004H, 33-1271, 33-1272, 33-1273, 33-1274, 33-1275, 33-1276 and 33-402; repealing 33-1004G; and, by adding new sections 33-515B, 33-523, 33-524, 33-1271A, 33-1273A and 33-1274A to revise the annual written evaluation process for professional staff; phase out renewable individual contracts; provide that professional staff employed after January 31, 2011 shall not be entitled to a formal review of decisions for not being reemployed; allow school boards to change the length of terms stated in current contracts and reduce the salaries of certificated staff with renewable contracts without due process proceedings; require school districts to disclose to employees a list of professional liability insurance providers; eliminate education support program for school districts experiencing enrollment decreases greater than one percent; eliminate teacher early retirement incentives; restrict the scope of negotiated agreements between school boards and professional staff to compensation and the duration of negotiated agreements to one year; and eliminate provisions for fact finding in professional negotiations.

## SENATE BILL NO. 1108

## AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-513, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN BOARDS OF TRUSTEES' POWERS AND DUTIES RELATING TO PROFESSIONAL PERSONNEL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-514, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN CATEGORIES OF CONTRACTS, TO REVISE PROVISIONS RELATING TO RENEWABLE CONTRACTS AND TO REVISE PROVISIONS RELATING TO EVALUATIONS; AMENDING SECTION 33-514A, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO CERTAIN CONTRACTS AND TO PROVIDE PROVISIONS RELATING TO EMPLOYMENT PURSUANT TO CATEGORY A OR B CONTRACTS; AMENDING SECTION 33-515, IDAHO CODE, TO REVISE PROVISIONS RELATING TO RENEWABLE CONTRACTS, TO PROVIDE THAT NO BOARD OF TRUSTEES SHALL HAVE THE AUTHORITY TO ENTER INTO RENEWABLE CONTRACTS, TO PROVIDE EXCEPTIONS, TO PROVIDE FOR THE APPLICATION OF LAW, TO PROVIDE PROVISIONS RELATING TO REASSIGNMENT OF CERTAIN EMPLOYEES, TO REVISE PROVISIONS RELATING TO THE DISCHARGE OF CERTAIN PERSONS, TO DELETE LANGUAGE RELATING TO A DECLARATION AND TO PROVIDE PROVISIONS RELATING TO A GRANDFATHERED RENEWABLE CONTRACT; AMENDING SECTION 33-515A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SUPPLEMENTAL CONTRACTS; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-515B, IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO CONTRACT TERMINATION, REDUCED ENROLLMENT AND SEVERANCE PAYMENTS; AMENDING SECTION 33-516, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CERTAIN RENEWABLE CONTRACT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-521, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN SEVERANCE PAYMENTS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-522, IDAHO CODE, TO DELETE PROVISIONS RELATING TO FINANCIAL EMERGENCY AND TO PROVIDE PROVISIONS RELATING TO REDUCTIONS IN FORCE; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-523, IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO A PRINCIPAL'S PERMISSION IN DETERMINING NEW STAFF; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-524, IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO SCHOOL DISTRICTS INFORMING EMPLOYEES OF PROFESSIONAL LIABILITY INSURANCE PROVIDERS; AMENDING SECTION 33-1003, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SPECIAL APPLICATIONS OF EDUCATIONAL SUPPORT PROGRAM AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 33-1004G, IDAHO CODE, RELATING TO EARLY RETIREMENT INCENTIVE; AMENDING SECTION 33-1004H, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SCHOOL DISTRICTS EMPLOYING RETIRED TEACHERS AND ADMINISTRATORS; AMENDING SECTION 33-1271, IDAHO CODE, TO REVISE PROVISIONS RELATING TO BOARDS OF TRUSTEES OR DESIGNATED REPRESENTATIVES OF SUCH, PROFESSIONAL EMPLOYEES, LOCAL EDUCATION ORGANIZATIONS OR DESIGNATED REPRESENTATIVES OF SUCH AND NEGOTIATION AGREEMENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 12, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1271A, IDAHO CODE, TO PROVIDE FOR LEGISLATIVE FINDINGS RELATING TO EVERGREEN OR CONTINUATION CLAUSES IN CERTAIN CONTRACTS OR AGREEMENTS AND TO PROVIDE THAT IT IS THE INTENT OF THE LEGISLATURE THAT CERTAIN CONTRACTS OR AGREEMENTS SHALL BE SUBJECT TO THE TERMS OF THIS ACT; AMENDING SECTION 33-1272, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1273, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE SELECTION AND DESIGNATION OF REPRESENTATIVES FOR CERTAIN EMPLOYEES FOR PURPOSES OF NEGOTIATIONS AND TO REVISE PROVISIONS RELATING TO NEGOTIATIONS; AMENDING CHAPTER 12, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1273A, IDAHO CODE, TO PROVIDE THAT CERTAIN NEGOTIATIONS OR MEETINGS SHALL BE OPEN AND AVAILABLE FOR THE PUBLIC TO ATTEND AND TO PROVIDE FOR APPLICATION OF CERTAIN DISCLOSURE LAWS; AMENDING SECTION 33-1274, IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO MEDIATION AND TO PROVIDE PROVISIONS

RELATING TO ESTABLISHING COMPENSATION UPON A FAILURE TO AGREE; AMENDING CHAPTER 12, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1274A, IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO PROCEDURE IN THE EVENT CERTAIN PARTIES AGREE AND TO PROVIDE PROVISIONS RELATING TO CERTAIN PARTIES FAILING TO RATIFY AND APPROVE AN AGREEMENT; AMENDING SECTION 33-1275, IDAHO CODE, TO DELETE LANGUAGE RELATING TO MEDIATION, FACT-FINDING AND CERTAIN HEARINGS AND TO PROVIDE PROVISIONS RELATING TO THE TERMS OF CERTAIN AGREEMENTS OR CONTRACTS; AMENDING SECTION 33-1276, IDAHO CODE, TO PROVIDE FOR THE INTENT OF THE ACT, TO PROVIDE THAT EACH SCHOOL DISTRICT BOARD OF TRUSTEES IS ENTITLED TO TAKE CERTAIN ACTION DUE TO SITUATIONS OF EMERGENCY OR ACTS OF GOD AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-402, IDAHO CODE, TO REMOVE A REFERENCE TO A FINANCIAL EMERGENCY AND TO MAKE TECHNICAL CORRECTIONS; PROVIDING SEVERABILITY, DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 33-513, Idaho Code, be, and the same is hereby amended to read as follows:

33-513. PROFESSIONAL PERSONNEL. The board of trustees of each school district including any specially chartered district, shall have the following powers and duties:

1. To employ professional personnel, on written contract in form approved by the state superintendent of public instruction, conditioned upon the provisions of section 33-523, Idaho Code, and a valid certificate being held by such professional personnel at the time of entering upon the duties thereunder. Should the board of trustees fail to enter into written contract for the employment of any such person, the state superintendent of public instruction shall withhold ensuing apportionments until such written contract be entered into. When the board of trustees has delivered a proposed contract for the next ensuing year to any such person, such person shall have a period of time to be determined by the board of trustees in its discretion, but in no event less than ten (10) days from the date the contract is delivered, in which to sign the contract and return it to the board. If the board of trustees does not make a determination as to how long the person has to sign and return the contract, the default time limit shall be twenty-one (21) days after it is delivered to the person. Delivery of a contract may be made only in person or by certified mail, return receipt requested. When delivery is made in person, delivery of the contract must be acknowledged by a signed receipt. When delivery is made by certified mail, delivery must be acknowledged by the return of the certified mail receipt from the person to whom the contract was sent. Should the person willfully refuse to acknowledge receipt of the contract or the contract is not signed and returned to the board in the designated period of time, or if no designated period of time is set by the board, the default time, the board may declare the position vacant.

(a) The board of trustees shall withhold the salary of any teacher who does not hold a teaching certificate valid in this state. No teacher whose salary is withheld pursuant to this provision shall have the right to any amounts owed, notwithstanding the provisions of the Idaho wage claims act or any other provision of law.

(b) The board of trustees shall not contract to require any teacher to make up time spent in attending any meeting called by the state board of education or by the state superintendent of public instruction; nor while attending regularly scheduled official meetings of the state teachers' association.

2. In the case of school districts other than elementary school districts, to employ a superintendent of schools for a term not to exceed three

(3) years, who shall be the executive officer of the board of trustees with such powers and duties as the board may prescribe. The superintendent shall also act as the authorized representative of the district whenever such is required, unless some other person shall be named by the board of trustees to act as its authorized representative. The board of trustees shall conduct an annual, written formal evaluation of the work of the superintendent of the district. The evaluation shall indicate the strengths and weaknesses of the superintendent's job performance in the year immediately preceding the evaluation and areas where improvement in the superintendent's job performance, in the view of the board of trustees, is called for. For all evaluations conducted after June 30, 2012, at least fifty percent (50%) of the evaluation shall be based on objective measure(s) of growth in student achievement, as determined by the board of trustees.

3. To employ through written contract principals who shall hold a valid certificate appropriate to the position for which they are employed, who shall supervise the operation and management of the school in accordance with the policies established by the board of trustees and who shall be under the supervision of the superintendent.

4. To employ assistant superintendents, directors, and principals and other district administrative employees for a term not to exceed two (2) years. ~~Service performed under such contract shall be included in meeting the provisions of section 33-515, Idaho Code, as a teacher and persons eligible for a renewable contract as a teacher holding renewable contract status in Idaho pursuant to section 33-515, Idaho Code, immediately previous to such administrative employment shall retain such eligibility.~~ The superintendent, the superintendent's designee, or in a school district that does not employ a superintendent, the board of trustees, shall conduct an annual, written evaluation of each such employee's performance. For all evaluations conducted after June 30, 2012, at least fifty percent (50%) of the evaluation shall be based on objective measure(s) of growth in student achievement, as determined by the board of trustees. In addition, input from the parents and guardians of students shall be considered as a factor in the evaluation of principals and any other school-based administrative employees' evaluation.

5. To suspend, grant leave of absence, place on probation or discharge certificated professional personnel for a material violation of any lawful rules or regulations of the board of trustees or of the state board of education, or for any conduct which could constitute grounds for revocation of a teaching certificate. Any certificated professional employee, except the superintendent, may be discharged during a contract term under the following procedures:

(a) The superintendent or any other duly authorized administrative officer of the school district may recommend the discharge of any certificated employee by filing with the board of trustees written notice specifying the alleged reasons for discharge.

(b) Upon receipt of such notice the board, acting through their duly authorized administrative official, shall give the affected employee written notice of the allegations and the recommendation of discharge, along with written notice of a hearing before the board prior to any determination by the board of the truth of the allegations.

(c) The hearing shall be scheduled to take place not less than six (6) days nor more than twenty-one (21) days after receipt of the notice by the employee. The date provided for the hearing may be changed by mutual consent.

(d) The hearing shall be public unless the employee requests in writing that it be in executive session.

(e) All testimony at the hearing shall be given under oath or affirmation. Any member of the board, or the clerk of the board, may administer oaths to witnesses or affirmations by witnesses.

(f) The employee may be represented by legal counsel and/or by a representative of a local or state teachers association.

(g) The chairman of the board or the designee of the chairman shall conduct the hearing.

(h) The board 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 upon request of the employee.

(i) At the hearing the superintendent or other duly authorized administrative officer shall present evidence to substantiate the allegations contained in such notice.

(j) The employee may produce evidence to refute the allegations. Any witness presented by the superintendent or by the employee shall be subject to cross-examination. The board may also examine witnesses and be represented by counsel.

(k) The affected employee may file written briefs and arguments with the board within three (3) days after the close of the hearing or such other time as may be agreed upon by the affected employee and the board.

(l) Within fifteen (15) days following the close of the hearing, the board shall determine and, acting through their duly authorized administrative official, shall notify the employee in writing whether the evidence presented at the hearing established the truth of the allegations and whether the employee is to be retained, immediately discharged, or discharged upon termination of the current contract.

(m) If the employee appeals the decision of the board of trustees to the district court, the district court may affirm the board's decision or set it aside and remand the matter to the board of trustees upon the following grounds, and shall not set the same aside for 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 authority;

(iii) That the findings by the board of trustees as a matter of law do not support the decision.

(n) The determination of the board of trustees shall be affirmed unless the employee's substantial rights, as that term is used in section 67-5279, Idaho Code, are violated.

6. The board of trustees has the authority to grant any employee's request for a leave of absence. The board may also delegate this authority to the district superintendent or any other individual so designated by the board.

7. The board of trustees has the authority to delegate its authority to the district superintendent or any other individual so designated by the board. If the board delegates this authority to the district superintendent or any other individual, the board shall ratify or nullify the action of placing an employee on a period of suspension, or involuntary leave of absence at the next regularly scheduled board meeting or at a special board meeting should the next regularly scheduled board meeting not be within a period of twenty-one (21) days from the date of such action.

(a) Should an employee of the district be in a position where there is a court order preventing the employee from being in the presence of minors or students, the district may place such an employee on a period of unpaid leave of absence or probation due to the employee's inability to perform the essential functions of the employee's position.

SECTION 2. That Section 33-514, Idaho Code, be, and the same is hereby amended to read as follows:

33-514. ISSUANCE OF ANNUAL CONTRACTS -- SUPPORT PROGRAMS -- CATEGORIES OF CONTRACTS -- OPTIONAL PLACEMENT -- WRITTEN EVALUATION. (1) The board of trustees shall establish criteria and procedures for the supervision and evaluation of certificated employees who are not employed on a renewable contract, as provided for in section 33-515, Idaho Code.

(2) There shall be ~~threetwo~~ (32) categories of annual contracts available to local school districts under which to employ certificated personnel:

(a) A category 1A contract is a limited one-year contract as provided in section 33-514A, Idaho Code.

~~(b) A category 2 contract is one (1) year contract for certificated personnel in the first and second or greater years of continuous employment with the same school district. Upon the decision by a local school board not to reemploy the person for the following year, the certificated employee shall be provided a written statement of reasons for non-reemployment by no later than May 25 July 1. Provided however, that no such decision shall be made until after the completion of the written evaluation required by subsection (4) of this section, unless such decision is being made pursuant to a reduction in force. No property rights shall attach to a category 2A contract and therefore the employee shall not be entitled to a review by the local board of trustees of the reasons or decision not to reemploy.~~

~~(c) A category 3 contract is for certificated personnel during the third year of continuous employment by the same school district. District procedures shall require at least one (1) evaluation prior to the beginning of the second semester of the school year and the results of any such evaluation shall be made a matter of record in the employee's personnel file. When any such employee's work is found to be unsatisfactory a defined period of probation shall be established by the board, but in no case shall a probationary period be less than eight (8) weeks. After the probationary period, action shall be taken by the board as to whether the employee is to be retained, immediately discharged, discharged upon termination of the current contract or reemployed at the end of the contract term under a continued probationary status. Notwithstanding the provisions of sections 67-2344 and 67-2345, Idaho Code, a decision to place certificated personnel on probationary status may be made in executive session and the employee shall not be named in the minutes of the meeting. A record of the decision shall be placed in the employee's personnel file. This procedure shall not preclude recognition of unsatisfactory work at a subsequent evaluation and the establishment of a reasonable period of probation. In all instances, the employee shall be duly notified in writing of the areas of work which are deficient, including the conditions of probation. Each such certificated employee on a category 3 contract shall be given notice, in writing, whether he or she will be reemployed for the next ensuing year. Such notice shall be given by the board of trustees no later than the twenty-fifth day of May of each such year. If the board of trustees has decided not to reemploy the certificated employee, then the notice must contain a statement of reasons for such decision and the employee shall, upon request, be given the opportunity for an informal review of such decision by the board of trustees. The parameters of an informal review shall be determined by the local board.~~

(2) year contract that may be offered at the sole discretion of the board of trustees for certificated personnel in their fourth or greater year of continuous employment with the same school district. The board of trustees may, at its sole discretion, add an additional year to such a contract upon the expiration of the first year, resulting in a new two (2) year contract. The board of trustees may, at its sole discretion, terminate the second year of a category B contract upon the conclusion of the first year, in the event of a reduction in force. Upon the



decision by a board of trustees not to reemploy the person employed on a category B contract for the following year, the certificated employee shall be provided a written statement of reasons for non-reemployment by no later than July 1. The employee shall, upon request, be given the opportunity for an informal review of such decision by the board of trustees. The parameters of an informal review shall be determined by the local board. Provided however, that no such decision shall be made until after the completion of the written evaluation required by subsection (4) of this section, unless such decision is being made pursuant to a reduction in force. No property rights shall attach to a category B contract and therefore the employee shall not be entitled to a formal review by the board of trustees of the reasons or decision not to reemploy.

(3) School districts hiring an employee who has been on renewable contract status as provided in section 33-515, Idaho Code, with another Idaho district or has out-of-state experience which would otherwise qualify the certificated employee for renewable contract status in Idaho, shall have the option to immediately grant renewable contract status, or to place the employee on a category 3 annual A or B contract. Such employment on a category 3 contract under the provisions of this subsection may be for one (1), two (2) or three (3) years. A certificated instructional employee hired with previous out-of-state experience shall not be eligible to receive a renewable contract, but may be offered a category A or B contract, based on the employee's years of experience, including out-of-state years of experience as if such years had been worked in Idaho.

(4) There shall be a minimum of two (2) written evaluations in each of the annual contract years of employment, and at least one (1) evaluation the first portion of which shall be completed before January/February 1 of each year, and shall include input from parents and guardians of students as a factor. The provisions of this subsection (4) shall not apply to employees on a category 1 contract. A second portion shall be included for all evaluations conducted after June 30, 2012. This second portion shall comprise at least fifty percent (50%) of the total written evaluation and shall be based on objective measure(s) of growth in student achievement. The requirement to provide at least one (1) written evaluation does not exclude additional evaluations that may be performed. No civil action for money damages shall arise for failure to comply with this subsection.

SECTION 3. That Section 33-514A, Idaho Code, be, and the same is hereby amended to read as follows:

33-514A. ISSUANCE OF LIMITED CONTRACT -- TRANSITION TO CATEGORY 1A AND B CONTRACTS. After August 1, the board of trustees may exercise the option of employing certified personnel on a one (1) year limited contract, which may also be referred to as a category 1 contract consistent with the provisions of section 33-514, Idaho Code. Such a contract is specifically offered for the limited duration of the ensuing school year, and no further notice is required by the district to terminate the contract at the conclusion of the contract year. (1) Any certificated employee employed pursuant to a category 1 or 2 contract, as defined by sections 33-514 and 33-514A, Idaho Code, as such sections existed on January 31, 2011, who will be offered an employment contract by the same school district for the ensuing school year, shall be employed pursuant to a category A contract.

(2) Any certificated employee employed pursuant to a category 3 contract, as defined in section 33-514, Idaho Code, as such section existed on January 31, 2011, who will be offered an employment contract by the same school district for the ensuing school year, shall be employed pursuant to a category A or B contract, as determined by the board of trustees.

SECTION 4. 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, having given notice of acceptance of renewal and upon signing a contract for a fourth full year, be placed on a renewable contract status with said school district subject to the provisions included in this chapter.~~ It is the intent of the legislature that after January 31, 2011, no new employment contract between a school district and a certificated employee shall result in the vesting of tenure, continued expectations of employment or property rights in an employment relationship. Therefore, no board of trustees shall have the authority to enter into any renewable contract with any certificated or other employee hired by such district, except as specifically addressed by this section and section 33-514(3), Idaho Code. For any certificated employees already holding renewable contract status with a district as of January 31, 2011, the provisions of this section shall apply.

(2) ~~After the third full year of employment and a~~ At least once annually, the performance of each such certificated employee, school nurse, or school librarian employed pursuant to a grandfathered renewable contract shall be evaluated according to criteria and procedures established by the board of trustees in accordance with section 33-514(4), Idaho Code, and general guidelines approved by the state board of education. Except as otherwise provided, that person the employee employed pursuant to a grandfathered renewable contract shall have the right to the continued automatic renewal of that employee's employment contract by giving notice, in writing, of acceptance of renewal. Such notice shall be given to the board of trustees of the school district then employing such person not later than the first twentieth day of June preceding the expiration of the term of the current contract. July. ~~Except as otherwise provided by this paragraph, the board of trustees shall notify each person entitled to be employed on a grandfathered renewable contract of the requirement that such person must give the notice hereinabove and that failure to do so may be interpreted by the board as a declination of the right to automatic renewal or the offer of another contract. Such notification shall be made, in writing, not later than the fifteenth first day of May~~ July, in each year, except to those persons to whom the board, prior to said date, has sent proposed contracts for the next ensuing year, or to whom the board has given the notice required by this section. These deadlines may not be altered by contract, including any currently existing or future negotiated agreement or master contract entered into pursuant to the professional negotiations act, sections 33-1271 through 33-1276, Idaho Code. Should any existing negotiated agreement or master contract contain such a provision as of January 31, 2011, such provision is declared to be null and void and of no force and effect as of January 31, 2011.

(3) ~~Any contract automatically renewed under the provisions of this section shall be for the same length as the term stated in the current contract and at a salary no lower than that specified therein, to which shall be added such increments as may be determined by the statutory or regulatory rights of such employee by reason of training, service, or performance, except where a board of trustees has declared a financial emergency pursuant to section 33-522, Idaho Code may be renewed for a shorter term, longer term or the same length of term as the length of term stated in the current contract, and at a greater, lesser or equal salary to that stated in the current contract.~~

(4) Should the board of trustees determine to reassign an administrative employee who, prior to being employed as an administrative employee was employed pursuant to a renewable contract to a nonadministrative position, the board of trustees, at its discretion, shall employ such nonadministrative employee pursuant to a grandfathered renewable contract. Such contract shall be deemed to have continued in place as if the nonadministrative employee was employed by the district pursuant to a renewable contract since January 31, 2011. Such grandfathered renewable contract is subject to the provisions of this section.

(a) If 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 board of trustees.

~~(4b) Nothing in this section shall prevent the board of trustees from offering a renewed grandfathered renewable 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 who is eligible to receive such a contract.~~

~~(5) Before a board of trustees can determine not to renew for reasons of an the unsatisfactory report of the performance of any certificated person whose who holds a grandfathered renewable contract would otherwise be automatically renewed, or to renew the contract of any such person at a reduced salary, such person shall be entitled to a reasonable period of probation lasting at least six (6) instructional weeks, following an observation, evaluation or partial evaluation. This period of probation shall be preceded by a written notice from the board of trustees or its designee 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 grandfathered 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 the consideration and decision to place an employee on probation 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, or to renew the contract of any such person at a reduced salary, 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, unless the decision to discharge upon termination has been made as part of a reduction in force, or the decision to immediately discharge has been made pursuant to section 33-515B, Idaho Code~~

~~(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 (7) 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 unless the decision to discharge upon termination has been made as part of a reduction in force, or the decision to immediately discharge has been made pursuant to section 33-515B, Idaho Code.~~

~~(87) 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 or not renew the contract of a certificated person whose contract would otherwise be being automatically renewed, nothing herein shall require any due process proceedings or probationary period.

(8) If the board of trustees, for reason of a reduction in force, for the ensuing contract year determines not to renew the grandfathered renewable contract of a certificated person whose contract would otherwise be automatically renewed, nothing herein shall require any probationary period.

SECTION 5. That Section 33-515A, Idaho Code, be, and the same is hereby amended to read as follows:

33-515A. SUPPLEMENTAL CONTRACTS. (1) In addition to the provisions of sections 33-514, ~~33-514A~~ and 33-515, Idaho Code, a board of trustees may enter into supplemental contracts to provide extra duty assignments for certificated employees. An extra duty assignment is, and supplemental contracts may be used for, an assignment which is not part of a certificated employee's regular teaching duties. Any such supplemental extra duty contract shall be separate and apart from an annual, a category A, B or a grandfathered renewable or a limited one (1) year contract, and no property rights shall attach to a supplemental extra duty contract. The supplemental extra duty contract shall be in a form approved by the state superintendent of public instruction.

~~(2) If a board of trustees determines not to reissue a supplemental contract, the board shall give written notice to the employee describing reasons for the decision not to reissue. The employee, upon written request to the board, shall be entitled to an informal review. The process and procedure for the informal review shall be determined by the local board of trustees. Within fifteen (15) days following the meeting with the employee, the board shall notify the employee of its final decision in the matter. Should a school district provide for additional procedures, nothing in this statute shall be interpreted to limit those procedures.~~  
In addition to the provisions of sections 33-514 and 33-515, Idaho Code, a board of trustees may enter into supplemental contracts to provide extra day assignments for certificated employees. An extra day assignment is an assignment of days of service in addition to the standard contract length used for the majority of certificated employees of the district. Such additional days may or may not be in service of the same activities of the employee's regular teaching duties. Any such contract shall be separate and apart from a category A, B or a grandfathered renewable contract and no property rights shall attach to a supplemental extra day contract. The supplemental extra day contract shall be in a form approved by the state superintendent of public instruction.

SECTION 6. 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 33-515B, Idaho Code, and to read as follows:

33-515B. REDUCED ENROLLMENT -- CONTRACT TERMINATION AND SEVERANCE STIPEND. (1) Each certificated employee contract shall include a provision allowing the board of trustees to terminate the contract in the event of a reduction in student enrollment of greater than one percent (1%). The percent of certificated employees that may be so terminated shall be limited to the percent that enrollment decreased beyond said one percent (1%) reduction. The enrollment figures used for such calculations shall be the same as those used for the calculation of emergency levies pursuant to section 33-805, Idaho Code.

(2) The school district shall notify those employees whose contracts are being terminated by no later than October 1. Such termination shall be effective as of a date specified by the board of trustees, but shall be no

earlier than two (2) weeks after the date that the employee received notification, and no later than the end of the current term. No other notification, hearing or other process shall be required to terminate the contracts of employees pursuant to this section.

(3) Selection of which employee contracts are to be terminated shall be at the sole discretion of the board of trustees, provided however, that the board of trustees shall not use seniority or contract status as a factor in making such determinations.

(4) Employees whose contracts are terminated under the provisions of this section shall receive a severance payment from the school district equal to ten percent (10%) of the moneys that had yet to be earned under the contract for the remainder of the school year.

(5) School districts shall furnish the state department of education with a list of employees whose contracts were terminated pursuant to this section, the dates on which such terminations were effective and the percentage of salary that had yet to be earned under the contract for the remainder of the school year. The state department of education shall calculate the salary-based apportionment and state-paid employee benefit amounts for each such employee, and, after reducing this allocation to account for the percent of the employee's salary that had already been earned for the school year, distribute ten percent (10%) of the remaining allocation to the school district as a reimbursement for severance payments made, from moneys appropriated to the educational support program.

SECTION 7. That Section 33-516, Idaho Code, be, and the same is hereby amended to read as follows:

33-516. RIGHT TO RENEWABLE CONTRACT WHEN DISTRICT IS DIVIDED, CONSOLIDATED OR REORGANIZED. If, by reason of the division of a school district, including any specially chartered district, or by reason of the consolidation of such a district with another district, or other districts, or by reason of the reorganization of such a district, the position held by any teacher entitled to a grandfathered renewable contract is transferred from the control of one (1) board of trustees to the control of a new or different board of trustees, the right to automatic renewal is not thereby lost, and such new or different board of trustees shall be subject to all of the provisions of this chapter with respect to such teacher in the same manner as if such teacher were its employee and had been its employee during the time such teacher was actually employed by the board of trustees from whose control the position was transferred.

SECTION 8. That Section 33-521, Idaho Code, be, and the same is hereby amended to read as follows:

33-521. EMPLOYEE SEVERANCE IN CONSOLIDATED DISTRICT. The board of trustees of any school district newly formed within the last twelve (12) months through the consolidation of two (2) or more school districts may offer a one (1) time severance payment to a maximum of ten percent (10%) of the employees that were previously employed by the separate school districts. Such severance offers shall be made entirely at the discretion of the board of trustees, and shall not be bound by custom, seniority or contractual commitment. Employees are under no obligation to accept a severance offer. Any employee accepting a severance payment shall not be eligible for reemployment by the school district for a one (1) year period thereafter.

The severance payment shall consist of fifty-five percent (55%) of the salary-based apportionment funds allocated for the employee in the last year, plus any applicable state paid employee benefits. ~~Such severance shall be reduced by one-half (1/2) for any employee who is simultaneously~~

~~receiving a disbursement of early retirement incentive funds, pursuant to section 33-1004G, Idaho Code. The state department of education shall reimburse eligible school districts for one hundred percent (100%) of such costs, upon application by the school district.~~

SECTION 9. That Section 33-522, Idaho Code, be, and the same is hereby amended to read as follows:

~~33-522. FINANCIAL EMERGENCY REDUCTIONS IN FORCE. (1) Prior to declaring a financial emergency, the board of trustees shall hold a public meeting for the purpose of receiving input concerning possible solutions to the financial problems facing the school district.~~

~~(2) If the state department of education certifies that one (1) or more of the conditions in paragraph (a), (b) or (c) of this subsection are met, then the board of trustees may declare a financial emergency if it determines that the condition in paragraph (f) of this subsection is also met. Alternatively, the board of trustees may declare a financial emergency if it determines that either of the conditions in paragraph (d) or (e) of this subsection are met and the state department of education certifies that the condition set forth in paragraph (f) of this subsection is also met.~~

~~(a) Any of the base salary multipliers in section 33-1004E, Idaho Code, are reduced by one and one-half percent (1 1/2%) or more from any prior fiscal year.~~

~~(b) The minimum instructional salary provision in section 33-1004E, Idaho Code, is reduced by one and one-half percent (1 1/2%) or more from any prior fiscal year.~~

~~(c) The amount of total general fund money appropriated per support unit is reduced by greater than three percent (3%) from the original general fund appropriation per support unit of any prior fiscal year.~~

~~(d) The amount of property tax revenue to be collected by the school district that may be used for any general fund purpose, with the exception of any emergency levy funds, is reduced from the prior fiscal year, and the amount of said reduction represents more than five percent (5%) of the school district's general fund budget for combined state and local revenues from the prior fiscal year.~~

~~(e) The school district's general fund has decreased by at least three percent (3%) from the previous year's level due to a decrease in funding or natural disaster, but not as a result of a drop in the number of support units or the index multiplier calculated pursuant to section 33-1004A, Idaho Code, or a change in the emergency levy.~~

~~(f) The school district's unrestricted general fund balance, which excludes funds restricted by state or federal law and considering both anticipated expenditures and revenue, is less than five and one-half percent (5 1/2%) of the school district's unrestricted general fund budget at the time the financial emergency is declared or for the fiscal year for which the financial emergency is declared.~~

~~(3) Upon its declaration of a financial emergency, the board of trustees shall:~~

~~(a) Have the power to reopen the salary and benefits compensation aspects of the negotiated agreement, including the length of the certificated employee contracts and the amount of compensation and benefits; and~~

~~(b) If the parties to the negotiated agreement mutually agree, reopen other matters contained within the negotiated agreement directly affecting the financial circumstances in the school district.~~

~~If the board of trustees exercises the power provided in this subsection consistent with the requirements of subsection (2) of this section, both the board of trustees and the local education association shall meet and confer in good faith for the purpose of reaching an agreement on such issues.~~

~~(4) If, after the declaration of a financial emergency pursuant to subsection (2) of this section, both parties have met and conferred in good faith and an agreement has not been reached, the board of trustees may impose its last, best offer, following the outcome of the due process hearing held pursuant to section 33-515(7), Idaho Code.~~

~~(5) A financial emergency declared pursuant to subsection (2) of this section shall be effective for only one (1) fiscal year at a time and shall not be declared by the board of trustees for a second consecutive year, unless so qualified by additional reductions pursuant to the conditions listed in subsection (2) of this section.~~

~~(6) The time requirements of sections 33-514(2) and 33-515(2), Idaho Code, shall not apply in the event a financial emergency is declared pursuant to subsection (2) of this section. The decision to institute a reduction in force, and the selection of employee(s) subject to such reduction, shall be at the sole discretion of the board of trustees, except for the following limitation: The decision as to which employee(s) shall be subject to such reduction shall be made without consideration of employee seniority or contract status.~~

SECTION 10. 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 33-523, Idaho Code, and to read as follows:

33-523. PRINCIPALS TO DETERMINE NEW STAFFING. The legislature finds that in order to fairly evaluate the performance of principals based on the growth in student performance at their schools, it is necessary to grant them more control over the hiring and assignment of certificated employees to their schools. To this end, no certificated employee shall be transferred to a principal's school without the principal's permission, unless the transfer is being made due to shifting student population levels, nor shall a certificated individual who the board of trustees wishes to hire be assigned to the principal's school without the principal's permission. As a consequence of this requirement, no new certificated individual shall be considered hired, nor shall a contract be issued to such individual, until a principal has given permission for the assignment to their school. In the case of a transfer that is being made due to shifting student population levels, the principal shall be provided with a choice of at least two (2) individuals to be transferred for each position to be filled, unless there is only one (1) individual whose certificates or endorsements qualify them for the position. For the purposes of this section, the term "principal" also means the head of school of a public charter school.

SECTION 11. 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 33-524, Idaho Code, and to read as follows:

33-524. LIABILITY INSURANCE. The legislature finds and declares:

(1) Educators make decisions everyday that may affect their families' financial future and therefore finds a need for educators to have accessible information about providers of professional liability insurance for educators.

(2) School districts seek to protect their employees from harmful liability and are also in the best position to inform employees about protections available to them.

(3) All employees of a school district shall be informed of all of their options in regards to professional liability insurance for educators. To that end school districts shall disclose to all employees a professional liability insurance for educators provider list. Districts shall encourage



employees who have interaction with students to have such insurance although no employee is required to carry such insurance.

(4) School districts shall create a list for such disclosure. Any provider authorized by the state shall be added to the school district's list by request, if the insurance provided is underwritten by a licensed insurance company with an A.M. Best rating of B+ or better. No provider shall be denied if the provider is properly authorized within the state and meets the provisions of this section.

(5) Providers are required to submit complete and accurate information regarding their insurance to each school district in the state by June 30 in order for information to be included on the list for the ensuing school year. School districts receiving information regarding insurance after June 30 shall not be required to include the information in the list of insurance options.

(6) "Complete and accurate information" is defined as name of provider, business mailing address, telephone number and website information.

(7) School districts shall provide name of provider, business mailing address, telephone number and website information to all employees. School districts shall not endorse any provider, product or service.

(8) School districts are hereby required to provide all employees with a list of insurance options on the first day all teachers and staff are required to report back to school for the start of the school year. All employees shall be required to sign a form indicating that they have received information about their insurance options. School districts shall require employees to review and sign the disclosure each year he or she is employed with the district. Disclosure forms shall list the names of insurance providers disclosed to employees and remain on file with the school district. The disclosure forms shall be held for a period of three (3) years and shall be accessible to the public by request.

(9) School districts are required to provide substitute teachers and pre-service teachers with a list of insurance options prior to their first day of teaching in the school district. Substitute teachers and pre-service teachers will be required to sign a form indicating that they have received information about their insurance options. This form shall list the names of insurance providers disclosed to employees.

(10) Each school district shall have an updated list available upon request from an employee of that district. School districts may post such information on a staff website or the intranet.

(11) For the purposes of this section, "providers" refers to any provider of professional liability insurance for educators. "Employees" refers to all certificated and noncertificated staff in a school district. "List" refers to the document containing a description of all providers offering professional liability insurance for educators to employees of the school district. "Form" refers to a document to be signed by school district employees who acknowledge such disclosure.

SECTION 12. That Section 33-1003, Idaho Code, be, and the same is hereby amended to read as follows:

33-1003. SPECIAL APPLICATIONS OF EDUCATIONAL SUPPORT PROGRAM. (1) ~~Decrease in Average Daily Attendance. --- Any school district which has a decrease in total average daily attendance of one percent (1%) of its average daily attendance in the then current school year from the total average daily attendance used for determining the allowance in the educational support program for the school year immediately preceding, the allowance of funds from the educational support program may be based on the average daily attendance of the school year immediately preceding, less one percent (1%). When this provision is applied, the decrease in average daily attendance shall be~~

~~proportionately distributed among the various categories of support units that are appropriate for the district.~~

(2) Application of Support Program to Separate Schools/Attendance Units in District.

(a) Separate Elementary School. -- Any separate elementary school shall be allowed to participate in the educational support program as though the school were the only elementary school operated by the district.

(b) Hardship Elementary School. -- Upon application of the board of trustees of a school district, the state board of education is empowered to determine that a given elementary school or elementary schools within the school district, not otherwise qualifying, are entitled to be counted as a separate elementary school as defined in section 33-1001, Idaho Code, when, in the discretion of the state board of education, special conditions exist warranting the retention of the school as a separate attendance unit and the retention results in a substantial increase in cost per pupil in average daily attendance above the average cost per pupil in average daily attendance of the remainder of the district's elementary grade school pupils. An elementary school operating as a previously approved hardship elementary school shall continue to be considered as a separate attendance unit, unless the hardship status of the elementary school is rescinded by the state board of education.

(c) Separate Secondary School. -- Any separate secondary school shall be allowed to participate in the educational support program as though the school were the only secondary school operated by the district.

(d) Elementary/Secondary School Attendance Units. -- Elementary grades in an elementary/secondary school will be funded as a separate attendance unit if all elementary grades served are situated more than ten (10) miles distance from both the nearest like elementary grades within the same school district and from the location of the office of the superintendent of schools of such district, or from the office of the chief administrative officer of such district if the district employs no superintendent of schools. Secondary grades in an elementary/secondary school will be funded as a separate attendance unit if all secondary grades served are located more than fifteen (15) miles by an all-weather road from the nearest like secondary grades operated by the district.

(e) Hardship Secondary School. -- Any district which operated two (2) secondary schools separated by less than fifteen (15) miles, but which district was created through consolidation subsequent to legislative action pursuant to chapter 111, laws of 1947, and which school buildings were constructed prior to 1935, shall be entitled to count the schools as separate attendance units.

(f) Minimum Pupils Required. -- Any elementary school having less than ten (10) pupils in average daily attendance shall not be allowed to participate in the state or county support program unless the school has been approved for operation by the state board of education.

(32) Remote Schools. -- The board of trustees of any Idaho school district which operates and maintains a school which is remote and isolated from the other schools of the state because of geographical or topographical conditions may petition the state board of education to recognize and approve the school as a remote and necessary school. The petition shall be in form and content approved by the state board of education and shall provide such information as the state board of education may require. Petitions for the recognition of a school as a remote and necessary school shall be filed annually at least ninety (90) days prior to the date of the annual meeting of the board of trustees as established in section 33-510, Idaho Code.

Within forty-five (45) days after the receipt of a petition for the recognition of a remote and necessary school, the state board of education

shall either approve or disapprove the petition and notify the board of trustees of its decision. Schools which the state board of education approves as being necessary and remote shall be allowed adequate funding within the support program for an acceptable educational program for the students of the school. In the case of a remote and necessary secondary school, grades 7-12, the educational program shall be deemed acceptable when, in the opinion of the state board of education, the accreditation standard relating to staff size, established in accordance with section 33-119, Idaho Code, has been met. The final determination of an acceptable program and adequate funding in the case of a remote and necessary elementary school shall be made by the state board of education.

(43) Support Program When District Boundaries are Changed.

(a) In new districts formed by the division of a district, the support program computed for the district, divided in its last year of operation, shall be apportioned to the new districts created by the division, in the proportion that the average daily attendance of pupils, elementary and secondary combined, residing in the area of each new district so created, is to the average daily attendance of all pupils, elementary and secondary combined, in the district divided in its last year of operation before the division.

(b) When boundaries of districts are changed by excision or annexation of territory, the support program of any district from which territory is excised for the last year of operation before such excision shall be divided, and apportioned among the districts involved, as prescribed in ~~subsection (4) paragraph~~ (a) of this subsection.

(c) In new districts formed by consolidation of former districts after January 1, 2007, the support program allowance, for a seven (7) year period following the formation of the new district, shall not be less than the combined support program allowances of the component districts in the last year of operation before consolidation. After the expiration of this period, the state department of education shall annually calculate the number of support units that would have been generated had the previous school districts not consolidated. All applicable state funding to the consolidated district shall then be provided based on a support unit number that is halfway between this figure and the actual support units, provided that it cannot be less than the actual support units.

SECTION 13. That Section 33-1004G, Idaho Code, be, and the same is hereby repealed.

SECTION 14. That Section 33-1004H, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004H. EMPLOYING RETIRED TEACHERS AND ADMINISTRATORS. (1) Notwithstanding the provisions of section 33-514, 33-1271 or 33-1273, Idaho Code, school districts may employ certificated school teachers and administrators who are receiving retirement benefits from the public employee retirement system of Idaho, except those who received benefits under the early retirement program previously provided in section 33-1004G, Idaho Code, by the state in positions requiring such certification, as at-will employees. Any employment contract between the retiree and the school district shall be separate and apart from the collective bargaining agreement of the school district.

(2) Retirees employed under this section shall accrue one (1) day per month of sick leave, with no annual sick leave accumulation unless additional sick leave is negotiated between the candidate and the school district at the time of employment. No sick leave accrued under this section qualifies for unused sick leave benefits under section 33-1228, Idaho Code.

(3) School districts are not required to provide health insurance or life insurance benefits to persons employed under this section. Post-termination benefits may be negotiated between the school district and the certificated employee at the time of rehiring but in no event can the parties affect or attempt to affect the provisions governing the public employee retirement system.

SECTION 15. That Section 33-1271, Idaho Code, be, and the same is hereby amended to read as follows:

33-1271. SCHOOL DISTRICTS -- PROFESSIONAL EMPLOYEES -- NEGOTIATION AGREEMENTS. The board of trustees of each school district, including specially chartered districts, or the designated representative(s) of such district, is hereby empowered to and shall, upon its own initiative or upon the request of a local education organization representing a majority of the professional employees, enter into a negotiation agreement request negotiations with the local education organization or the designated representative(s) of such organization on behalf of the professional employees employed by the school district and negotiate with such party in good faith on those matters specified in any such negotiation agreement between the local board of trustees and the local education organization related to compensation of professional employees. A request for negotiations may be initiated by either party to such negotiation agreement the local education organization or entity seeking to be designated the local education organization, or the board of trustees.

(1) Accurate records or minutes of the proceedings shall be kept, and shall be available for public inspection at the offices of the board of education during normal business hours.

(2) Joint ratification of all final offers of settlement shall be made in open meetings and notice of the ratification activity shall be provided to the parties to the agreement.

(3) As the subject matter of negotiations is compensation provided through public funding, all negotiation sessions of the parties shall be conducted in open session, with all members of the public able to attend.

SECTION 16. That Chapter 12, 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 33-1271A, Idaho Code, and to read as follows:

33-1271A. EXISTING AGREEMENTS. The legislature finds the inclusion of evergreen or continuation clauses in master contracts or negotiated agreements to be against the public policy of the state of Idaho. Such clauses purport to bind in perpetuity the actions of future elected boards of trustees, subvert the ability of the people to direct their own affairs through the free election of trustees, and are contrary to the tenets of a free republic. Therefore, it is the intent of the legislature that any master contract or negotiated agreement, by any name or title, existing as a result of negotiations between a board of trustees and a local education organization shall be subject to the terms of this act, regardless of any evergreen or continuation clause included in such contract or agreement.

SECTION 17. That Section 33-1272, Idaho Code, be, and the same is hereby amended to read as follows:

33-1272. DEFINITIONS. Definition of terms as used in this act:

1. "Professional employee" means any certificated employee of a school district, including charter districts; provided, however, that superintendents, supervisors or principals may be excluded from the professional em-

ployee group if a negotiation agreement between the board and local education organization so specifies.

2. "Local education organization" means any local district organization duly chosen and selected by a majority of the professional employees as their representative organization for negotiations under this act. For the purposes of this definition, "majority" shall mean one (1) certificated professional employee more than fifty percent (50%) or greater of the professional employees in the district.

3. "Negotiations" means meeting and conferring in good faith in open session by a local board of trustees and the authorized local education organization, or the respective designated representatives of both parties, for the purpose of reaching an agreement, upon matters and conditions subject to negotiations as specified in a negotiation agreement between said parties related to the compensation of professional employees.

4. "Compensation" means salary and benefits for the professional employee.

5. "Benefits" includes employee insurance, leave time and sick leave benefits.

SECTION 18. That Section 33-1273, Idaho Code, be, and the same is hereby amended to read as follows:

33-1273. SCHOOL DISTRICTS -- PROFESSIONAL EMPLOYEES -- NEGOTIATIONS DESIGNATION OF THE LOCAL EDUCATION ORGANIZATION -- DESIGNATION OF REPRESENTATIVES -- OBLIGATION TO NEGOTIATE. (1) The local education organization selected by a majority of the qualifying professional employees shall be the exclusive representative for all professional employees in that district for purposes of negotiations.

(a) At the commencement of each school year, the local education association identified in the agreement from the prior year, if such existed, shall certify to the board of trustees that the local education association has been selected and designated as the local education organization for the professional employees of the district. This certification shall be provided in writing on a form agreed upon between the parties as one (1) of the options detailed below. The purpose of such certification is to provide the district's administration and board with notice of the appropriate entity for the administration and board to work with relating to personnel matters.

(b) Within ten (10) days of the date a request for negotiations is initiated by either the local education organization or the board of trustees or its designee, the local education organization must provide proof that it has been duly chosen by a majority of the professional employees of the district as their representative organization for negotiations under this act. Such proof may be:

(i) A list of certificated professional employees, who would be subject to the agreement, who are members of the local education organization as of the date that the request for negotiations is initiated; or

(ii) Other evidence that the professional employees have chosen and selected the local education organization as their representative organization as of the date that the request for negotiations is initiated.

(c) If the local education organization or entity seeking to be declared the local education organization cannot provide evidence that the majority of the professional employees have chosen and selected it as the representative organization, the district shall have no obligation or authority to enter into negotiations as provided in this act.

(2) The individual or individuals selected to negotiate for the professional employees shall be a member of the organization designated to rep-

resent the professional employees and shall be a certificated professional employee of the local school district. However, in the event a local board of trustees chooses to designate any individual(s) other than the superintendent or elected trustee(s) of the school district as its representative(s) for negotiations, the local educational organization is authorized to designate any individual(s) of its choosing to act as its representative(s) for negotiations. A local board of trustees or its designated representative(s) shall negotiate matters covered by a negotiations agreement pursuant to section 33-1272, Idaho Code, only with the local education organization or its designated representative(s).

(3) Should there be no entity that qualifies as a local education organization by May 10, the board has no obligation or authority to negotiate as required under this act, and may establish compensation for professional employees for the ensuing school year as it deems appropriate.

SECTION 19. That Chapter 12, 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 33-1273A, Idaho Code, and to read as follows:

33-1273A. NEGOTIATIONS IN OPEN SESSION. Any other provision of law notwithstanding, including any provisions to the contrary in section 67-2345, Idaho Code, all negotiations or meetings allowed or required pursuant to this act shall be in open session and shall be open and available for the public to attend. In addition, all documentation exchanged between the parties during negotiations, including all offers, counteroffers and meeting minutes shall be subject to public writings disclosure laws.

SECTION 20. That Section 33-1274, Idaho Code, be, and the same is hereby amended to read as follows:

33-1274. APPOINTMENT OF MEDIATORS -- COMPENSATION MEDIATION -- ESTABLISHMENT OF COMPENSATION TERMS UPON FAILURE TO AGREE. (1) In the event the parties in negotiations are not able to come to an agreement upon items submitted for negotiations under a negotiations agreement between the parties, one or more mediators may be appointed. The issue or issues in dispute shall be submitted to mediation at the request of either party in an effort to induce the representatives of the board and the local education organization to resolve the conflict. The procedures for appointment of and compensation for the mediators shall be determined by both parties compensation for professional employees by May 10, if agreed to by both parties, a mediator may be appointed. The issue or issues in dispute shall be submitted to mediation in an effort to induce the representatives of the board of trustees and the local education organization to resolve the conflict. The procedure for appointment of and compensation for the mediator shall be determined by both parties. Mediation is nonbinding, and the recommendation or recommendations of the mediator, if any, shall not be construed as having any force or effect.

(2) If no agreement regarding compensation has been reached by the parties on or before June 10, the board of trustees, at a meeting held no later than June 22, shall establish compensation for professional employees for the ensuing school year as it deems appropriate.

(3) If the board of trustees establishes compensation pursuant to subsection (2) of this section, no hearing need be held by the board.

(4) The dates of June 10 and June 22 are not arbitrary or discretionary dates that may be modified by agreement of the parties. The only instance in which the days may be extended is if June 10 or June 22 fall on a Sunday. In such situation the board of trustees may, at its discretion, extend these days to June 11 or June 23.

SECTION 21. That Chapter 12, 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 33-1274A, Idaho Code, and to read as follows:

33-1274A. PROCEDURES UPON AGREEMENT. (1) In the event the parties in negotiations agree regarding compensation of professional employees at any time prior to June 10, such agreement shall be placed in writing by the persons who negotiated on behalf of the board of trustees and the local education organization. Such written agreement shall be offered for approval and ratification by the local education organization at an open meeting on or before June 15. If such written agreement is approved and ratified by the local education organization on or before June 15, it shall thereafter be approved or disapproved by the board of trustees at a board meeting held on or before June 22.

(2) Should the local education association or the board of trustees fail to ratify and approve the written agreement as provided for in this section, the board of trustees shall establish other compensation terms, as independently determined by the board and not controlled by the terms which failed ratification, for professional employees as provided in section 33-1274, Idaho Code.

SECTION 22. That Section 33-1275, Idaho Code, be, and the same is hereby amended to read as follows:

~~33-1275. FACT-FINDERS -- APPOINTMENT -- HEARINGSTERMS OF AGREEMENTS. 1. If mediation fails to bring agreement on all negotiable issues, the issues which remain in dispute may be submitted to fact-finding by request of either party. One or more fact-finders shall be appointed by the parties by mutual agreement. If such agreement cannot be reached within thirty (30) days of the request for such appointment, the state superintendent of public instruction shall make such appointment. The fact-finder shall have authority to establish procedural rules, conduct investigations and hold hearings during which each party to the dispute shall be given an opportunity to present its case with supporting evidence (1) All negotiated agreements or master contracts, by any name or title, entered into pursuant to the provisions of this act, shall have a term of July 1 through June 30 of the ensuing fiscal year. The board of trustees shall not have the authority to enter into any agreement negotiated under the provisions of this act that has any clause or provision which allows for such agreement to be in any force or effect for multiple years or indefinitely, or otherwise does not expire on its own terms on or before June 30 of the ensuing fiscal year.~~

~~2. Within thirty (30) days following designation of the fact-finder, he shall submit a report in writing to the respective representatives of the board and the professional employees, setting forth findings of fact and recommendations on the issues submitted (2) Any agreement or contract previously entered pursuant to the provisions of sections 33-1271 through 33-1276, Idaho Code, shall be deemed to expire as of June 30, 2011, regardless of any evergreen, continuation or other clause included in such contract which provides for continuation beyond June 30, 2011. In addition, any term of any existing agreement which conflicts with the current provisions of title 33, Idaho Code, is hereby declared void and unenforceable from the date of July 1, 2011.~~

SECTION 23. That Section 33-1276, Idaho Code, be, and the same is hereby amended to read as follows:

33-1276. INTENT OF ACT. Nothing contained herein is intended to or shall conflict with, or abrogate, the powers or duties and responsibilities vested in the legislature, state board of education, and the board of

trustees of school districts by the laws of the state of Idaho. Each school district board of trustees is entitled, ~~without negotiation or reference to any negotiated agreement,~~ to take action that may be necessary to carry out its responsibility due to situations of emergency or acts of God.

SECTION 24. That Section 33-402, Idaho Code, be, and the same is hereby amended to read as follows:

33-402. NOTICE REQUIREMENTS.

~~(1) (a) (b) (c) (d) (e) (f) (g) (2) a b c d e (3) (4) (5)~~

(61) Notice of annual meeting of elementary school districts as provided for in section 33-510, Idaho Code, and of intent to discontinue a school, as provided for in section 33-511, Idaho Code, and annual budget hearing as provided for in section 33-801, Idaho Code, shall be given by posting ~~(2)~~ for not less than ten (10) days, and publishing once in a newspaper as provided in section 60-106, Idaho Code, published within the district, or, if there be none, then in a newspaper as provided in section 60-106, Idaho Code, published in the county in which such district lies. If more than one (1) newspaper is printed and published in said district or county, then in the newspaper most likely to give best general notice of the election within said district; provided that if no newspaper is published in the said district or county, then in a newspaper as provided in section 60-106, Idaho Code, most likely to give best general notice of the election within the district. ~~If a financial emergency has been declared pursuant to section 33-522, Idaho Code, the notice of annual meeting and the notice of the annual budget hearing shall be posted pursuant to subsection (2) of this section, for not less than five (5) days, and by such further notice as shall provide reasonable notice to the patrons of the school district if publication in a newspaper is not feasible.~~

(72) Notices calling for bids for the acquisition, use, or disposal of real and personal property as provided for in section 33-601, Idaho Code, and contracting for transportation services as provided for in section 33-1510, Idaho Code, shall be given in a newspaper of general circulation as required by chapter 1, title 60, Idaho Code, except that the notice for contracting for transportation services shall be made not less than four (4) weeks before the date of opening bids.

(83) Proof of posting notice shall be upon the affidavit of the person posting the same; and proof of publication shall be upon the affidavit of the publisher of the newspaper or newspapers respectively. Such affidavits shall be filed with the board by the clerk responsible for the posting and the publishing of said notice.

SECTION 25. 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 26. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2, 3, 4, 5, 7, 8, 9, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25 of this act shall be in full force and effect on and after passage and approval. Sections 6, 10, 11 and 12, shall be in full force and effect on and after July 1, 2011.





*The Office of the Governor*  
*Proclamation*

WHEREAS, the Secretary of State and the State Board of Canvassers, in the presence of the Governor, have canvassed the votes cast on November 6, 2012, concerning Proposition One (A Referendum to approve or reject legislation limiting negotiated agreements between teachers and local school boards and ending the practice of issuing renewable contracts.); and

WHEREAS, the results show that the said Proposition One received 277,102 "Yes" votes, 371,224 "No" votes,

NOW, THEREFORE, BE IT RESOLVED I, C.L. "Butch" Otter, Governor of the State of Idaho, pursuant to Section 34-1813, Idaho Code, do hereby proclaim that Proposition One (Senate Bill 1108, Chapter 96 of the 2011 Session Laws) has been repealed by the people of the State of Idaho.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 21st day of November in the year of our Lord 2012, and of the Independence of the United States of America the two hundred thirty-seventh and of the Statehood of Idaho the one hundred twenty-third.

BY THE GOVERNOR:

/s/ BEN YSURSA  
SECRETARY OF STATE

/s/ C.L. "BUTCH" OTTER  
GOVERNOR OF THE STATE OF IDAHO

PROPOSITION NO. 02

**Short Ballot Title**      Referendum to approve or reject legislation providing teacher performance pay based on state-mandated test scores, student performance, hard-to-fill positions and leadership.

**Long Ballot Title**      Referendum to approve or reject S1110; relating to education: revising Idaho Code by adding new section 33-1004I to provide and distribute in fiscal year 2013 state share-based pay for performance bonuses to certificated instructional staff based on a school's median student growth percentiles on state achievement tests and a school's median standardized score on state achievement tests and local share-based pay for performance based on student test scores, graduation rates, dropout rates, percent of graduates attending postsecondary education or entering military service, meeting federal "adequate yearly progress", number of students successfully completing dual credit or advanced placement classes; percent of students in extracurricular activities, class projects, portfolios, successful completion of special student assignments, parental involvement, teacher-assigned grades, and/or student attendance rates, and, in fiscal year 2014 and thereafter, in addition to the aforementioned bonuses, provide incentives for certificated instructional staff in hard-to-fill positions and leadership awards for certificated instructional staff who assume one or more of the following additional duties: instructional staff mentoring, content leadership, lead teacher, peer coaching, content specialist, remedial instructor, curriculum development, assessment development, data analysis, grant writing, special program coordinator, research project, professional development instructor, service on education committees, educational leadership and earning national board certification.

## SENATE BILL NO. 1110

## AN ACT

RELATING TO EDUCATION; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1004I, IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO PAY FOR PERFORMANCE, HARD TO FILL POSITIONS, LEADERSHIP AWARDS AND TO PROVIDE FOR DISTRIBUTION OF MONEYS; TO PROVIDE THAT NOTHING IN THIS ACT SHALL PREVENT THE LEGISLATURE FROM ADJUSTING COMPONENTS OF CERTAIN FUNDING FORMULAS PURSUANT TO THE NEEDS OF PUBLIC SCHOOLS AND THE CONSTITUTIONAL REQUIREMENT THAT THE STATE MAINTAIN A BALANCED BUDGET; PROVIDING SEVERABILITY; AND PROVIDING EFFECTIVE DATES.

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

SECTION 27. 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 33-1004I, Idaho Code, and to read as follows:

33-1004I. PAY FOR PERFORMANCE -- HARD TO FILL POSITIONS -- LEADERSHIP AWARDS. (1) In addition to the moneys provided pursuant to the calculations for salary-based apportionment, the following amounts shall be distributed and paid, from the moneys appropriated to the educational support program, subject to the criteria contained in this section:

(a) For fiscal year 2013, an amount equal to five hundred seven (507) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds shall be distributed pursuant to subsection (2) of this section.

(b) For fiscal year 2014, an amount equal to six hundred eighty (680) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds shall be distributed pursuant to subsections (2), (3) and (4) of this section, in the following proportions:

(i) Seventy-four and one-tenth percent (74.1%) pursuant to subsection (2) of this section;

(ii) Seven and four-tenths percent (7.4%) pursuant to subsection (3) of this section;

(iii) Eighteen and one-half percent (18.5%) pursuant to subsection (4) of this section.

(c) For fiscal year 2015 and each fiscal year thereafter, an amount equal to six hundred eighty (680) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds shall be distributed pursuant to subsections (2), (3) and (4) of this section, plus fifty percent (50%) of any moneys appropriated for increased pay for certificated staff beyond the amount needed to fund the base and minimum instructional salaries, pursuant to section 33-1004E, Idaho Code, that were in effect during fiscal year 2009. Such distributions made pursuant to subsections (2), (3) and (4) of this section shall be made according to the allocations established in subsection (1) (b) of this section.

(d) The provision in subsection (1) (c) of this section that directs that fifty percent (50%) of certain moneys be distributed pursuant to subsections (2), (3) and (4) of this section shall be effective until such time as fifteen percent (15%) of the total moneys appropriated for certificated staff salaries are being distributed pursuant to this section. After this allocation is attained, fifteen percent (15%) of the total moneys appropriated for certificated staff salaries shall be distributed pursuant to subsections (2), (3) and (4) of this section. Such distributions made pursuant to subsections (2), (3) and (4) of this section shall be made according to the allocations established in subsection (1) (b) of this section.

(e) For the purposes of this subsection, the term "statewide support units" shall mean the total number of support units calculated for the purposes of distributing salary-based apportionment in the current fiscal year.

(f) In the event of a reduction in the moneys appropriated for certificated staff salaries, the calculations established pursuant to subsections (1) (b) through (d) of this section shall be performed in reverse.

(2) Share-based pay for performance bonuses for student achievement growth and excellence.

(a) Certificated employees shall be awarded state shares based on the performance of whole schools.

(i) Growth -- Utilizing a state longitudinal data system for students, the state department of education shall develop a system for measuring individual student growth. Such system shall compare spring student scores on the state-mandated summative achievement tests ("spring test") from one year to the next, and establish percentile rankings for individual student growth by comparing students with an identical spring test score in the previous year with each other in the current year. A separate growth percentile shall be established for each student for each subject in which the spring test is given in consecutive grades. The median student growth percentile, based on measuring all eligible students, shall be the growth score for each school. All certificated employees at a school with a median growth score in the following ranked quartiles shall be awarded state shares as follows:

	Instructional	Administrative
1st Highest Quartile	1.00 shares	2.00 shares
2nd Highest Quartile	0.50 shares	1.00 shares
3rd Highest Quartile	0.25 shares	0.50 shares
4th Highest Quartile	0.00 shares	0.00 shares

(ii) Excellence -- The state department of education shall develop a system for comparing and ranking school spring test scores based on standardized scores, utilizing all grades and subjects tested. Based on each school's median standardized score, all certificated employees of a school in the following ranked quartiles shall be awarded state shares as follows:

	Instructional	Administrative
1st Highest Quartile	0.50 shares	1.00 shares
2nd Highest Quartile	0.25 shares	0.50 shares
3rd Highest Quartile	0.00 shares	0.00 shares
4th Highest Quartile	0.00 shares	0.00 shares

(iii) No certificated instructional employee shall receive more than one (1.00) share, the results of the quartile award tables for growth and excellence notwithstanding. No certificated administrative employee shall receive more than two (2.00) shares, the results of the quartile award tables for growth and excellence notwithstanding.

(iv) Students whose spring test results are excluded from the school's results for federal accountability purposes shall be excluded from school growth and excellence calculations.

(v) For schools that do not administer the spring test, or for which no spring test growth calculation is possible, the school

and its certificated employees shall be included with the school to which the students matriculate.

(vi) For certificated employees assigned more than one (1) school, state shares shall be earned pro rata, based on the percentage of the employee's time assigned to each school at the time that students take their spring tests. In addition, for part-time employees, state shares shall be earned pro rata, based on such employee's full-time equivalency status.

(vii) The number of schools in each quartile shall be based on the number of certificated employees employed at the schools, with as close to twenty-five percent (25%) of such employees falling within each quartile as possible.

(viii) For certificated employees not assigned to a specific school, all new employment contracts signed on or after July 1, 2011, shall provide that at least five percent (5%) of the total available compensation be based on growth in student achievement, as determined by the board of trustees. Such percentage shall increase to ten percent (10%) of the total available compensation for contracts signed on or after July 1, 2015, and fifteen percent (15%) for contracts signed on or after July 1, 2019.

(b) Local shares shall be awarded to certificated employees based on performance. Each board of trustees shall develop a plan for awarding local pay for performance shares in consultation with certificated employees. Local share awards to certificated instructional employees shall be based on the performance of groups of such employees, unless there is only one (1) such employee in the school district. No employee shall receive more than one (1.00) local share. For part-time employees, local shares shall be earned pro rata, based on such employee's full-time equivalency status. Local share awards shall be based on one (1) or more of the following measures:

- (i) Student test scores;
- (ii) Student graduation rate;
- (iii) Student dropout rate;
- (iv) Percent of graduates attending postsecondary education or entering military service;
- (v) Making federally approved adequate yearly progress;
- (vi) Number of students successfully completing dual credit or advanced placement classes;
- (vii) Percent of students involved in extracurricular activities;
- (viii) Class projects;
- (ix) Portfolios;
- (x) Successful completion of special student assignments;
- (xi) Parental involvement;
- (xii) Teacher-assigned grades; and
- (xiii) Student attendance rate.

For any school district in which the board of trustees fails to adopt a plan for awarding local pay for performance shares by September 1, local shares awarded for performance in that school year shall be identical to the number of state shares awarded for each certificated employee.

(c) Individual pay for performance bonuses shall be calculated as follows:

(i) Divide the moneys available for pay for performance bonuses by the total number of state shares earned by certificated employees statewide.

(ii) To determine the amount of pay for performance bonus funds to distribute to each school district, multiply the result of subparagraph (i) of this subsection by the number of state shares earned by certificated employees in the school district.

(iii) To establish the value of a share in each school district, the school district shall divide the funds distributed by the state department of education pursuant to subparagraph (ii) of this subsection by the total number of state and local shares earned by all certificated employees who earned at least a fraction of both a state and local share.

(iv) Multiply the total number of state and local shares earned by each certificated employee of the school district who earned at least a fraction of a state and local share by the result of subparagraph (iii) of this subsection. Certificated employees who do not earn at least a fraction of both a state and local share shall not be eligible to receive a pay for performance bonus. Pay for performance bonuses shall be paid by school districts to qualifying certificated employees in a lump sum by no later than December 15 following the spring test of the prior school year.

(3) Hard to fill position bonuses.

(a) The state board of education shall designate certificates and endorsements held by certificated instructional staff for hard to fill position bonuses. The board shall rank the certificates or endorsements to be so designated based on the relative difficulty of school districts' ability to recruit and retain such personnel. No additional certificates or endorsements may be added to the rankings beyond the first such certificate or endorsement that causes the number of certificates or endorsements to equal or exceed one-third ( $1/3$ ) of the total certificates and endorsements held by certificated instructional public school employees in the state. The board shall review and alter such rankings and designations at least once every two (2) years based on market conditions. Any changes in rankings and designations shall be made by the board by no later than March 31 of the previous school year, and school districts shall be promptly notified of any changes.

(b) School district boards of trustees may choose to designate certificates and endorsements held by certificated instructional employees for hard to fill position bonuses, provided such certificates and endorsements have been so designated by the state board of education as provided in subsection (3)(a) of this section. School boards of trustees choosing to make such designations shall rank the certificates and endorsements based on the relative difficulty of recruiting and retaining such personnel. No additional certificates or endorsements may be added to the rankings beyond the first such certificate or endorsement that causes the number of the district's full-time equivalent employees utilizing such certificates and endorsements to equal or exceed ten percent (10%) of the certificated instructional positions employed by the district; provided however, the number of such employees who may be designated shall not be less than one (1). The amount distributed for utilization by each district shall be based on each district's share of the total certificated instructional employees statewide. Funds so distributed shall be paid solely to certificated instructional personnel holding the certifications and endorsements designated by the local school board, in amounts that shall be determined at the discretion of the local board, which may vary between, but not within, individual certificate and endorsement areas; provided however, no award shall exceed twice the statewide average bonus paid per certificated instructional employee pursuant to subsection (2) of this section.

(c) School districts may apply to the state board of education to waive the requirement that a certificate or endorsement designated by the school district for hard to fill position bonuses first be designated for such by the state board of education. The state board of education may grant such a waiver for good and rational cause.

(d) In order to receive a hard to fill position bonus, an individual must actually be providing instruction or service within the designated certificate or endorsement area.

(e) If an individual qualifies for a hard to fill position bonus in more than one (1) certificate or endorsement, the individual shall be allocated and paid on a full-time equivalency basis, based on the relative time spent in each of the qualifying areas.

(f) School district boards of trustees choosing to utilize hard to fill position bonus funds shall designate a new list of certificates and endorsements for such bonuses for each school year by no later than June 11 of the previous school year. The new list may be identical to the list from the previous school year, subject to the current ten percent (10%) limitation requirements.

(g) If the board of trustees determines that it will be unable to attract a qualified candidate to serve in a hard to fill position, even with the addition of such bonus funds, the board may use such funds to pay for the training and coursework needed by a currently unqualified employee or other individual to gain such qualification. If such payment is authorized, the amount paid for an individual in a fiscal year shall not exceed twice the statewide average bonus paid per certificated instructional employee pursuant to subsection (2) of this section. The individual for whom training and coursework is paid in such manner must earn a passing grade for the training and coursework that is paid by the school district and must work for the school district at least one (1) year in the designated certificate or endorsement area for each fiscal year in which the school district made payments for training and coursework, or repay the funds.

(h) Hard to fill position bonuses shall be paid by school districts to qualifying certificated instructional employees by no later than December 15, in a lump sum payment.

(4) Leadership awards.

(a) School district boards of trustees may designate up to twenty-five percent (25%) of their certificated instructional employees for leadership awards. Such awards shall recognize excellence, be valid only for the fiscal year for which the awards are made and require one (1) or more of the following additional duties:

- (i) Teacher or other instructional staff mentoring;
- (ii) Content leadership;
- (iii) Lead teacher;
- (iv) Peer teaching coach;
- (v) Content specialist;
- (vi) Remedial instructor;
- (vii) Curriculum development;
- (viii) Assessment development;
- (ix) Data analysis;
- (x) Grant writing;
- (xi) Special program coordinator;
- (xii) Research project;
- (xiii) Teaching professional development course;
- (xiv) Service on local/state/national education committee or task force;
- (xv) Providing leadership to a professional learning community;
- and
- (xvi) Earning national board certification.

Duties related to student activities and athletics shall not be eligible for leadership awards.

(b) Local school district boards of trustees shall require that the employee work additional time as a condition of the receipt of a leadership award.

(c) Local school district boards of trustees may grant multiple leadership awards with multiple additional duties. No employee, however, shall receive leadership awards in excess of twice the statewide average bonus paid per certificated instructional employee pursuant to subsection (2) of this section.

(d) Leadership awards shall be paid by school districts to qualifying certificated instructional employees in a lump sum payment upon completion of the additional duty.

(e) Employees with fewer than three (3) years of experience shall not be eligible for leadership awards. The term "experience" shall be as used for certificated instructional staff in section 33-1004A, Idaho Code.

(f) Notwithstanding the provisions of subsection (4) (a) through (e) of this section, employees who earned national board certification prior to July 1, 2011, and who are no longer receiving payments for earning such certification pursuant to section 33-1004E, Idaho Code, due to the repeal of the provision providing for such payments, shall be paid two thousand dollars (\$2,000) per year from the moneys allocated pursuant to this subsection (4) until all moneys that would have been paid under the previous provisions of section 33-1004E, Idaho Code, have been paid.

(5) School districts may shift moneys between the allocations for subsections (3) and (4) of this section. The ten percent (10%) limitation established in subsection (3) of this section and the twenty-five percent (25%) limitation established in subsection (4) of this section shall be adjusted accordingly.

(6) All distributions of moneys to school districts shall be made as part of the third payment to school districts required by section 33-1009, Idaho Code.

(7) School districts shall not enter into any contract that discriminates against those receiving a bonus award pursuant to this section.

(8) The state department of education may require reports of information as needed to implement the provisions of this section and provide reports to the governor, the legislature and the public.

(9) 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."

SECTION 28. Nothing in this act shall prevent the Legislature from adjusting any component of any public school funding formula in any fiscal year, pursuant to the needs of public schools and the constitutional requirement that the state of Idaho maintain a balanced budget.

SECTION 29. 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 30. Sections 1, 2 and 3 of this act shall be in full force and effect on and after July 1, 2012.





*The Office of the Governor*  
*Proclamation*

WHEREAS, the Secretary of State and the State Board of Canvassers, in the presence of the Governor, have canvassed the votes cast on November 6, 2012, concerning Proposition Two (A Referendum to approve or reject legislation providing teacher performance pay based on state-mandated test scores, student performance, hard-to-fill positions and leadership.); and

WHEREAS, the results show that the said Proposition Two has received 272,939 "Yes" votes, 376,689 "No" votes,

NOW, THEREFORE, BE IT RESOLVED I, C.L. "Butch" Otter, Governor of the State of Idaho, pursuant to Section 34-1813, Idaho Code, do hereby proclaim that Proposition Two (Senate Bill 1110, Chapter 97 of the 2011 Session Laws) has been repealed by the people of the State of Idaho.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 21st day of November in the year of our Lord 2012, and of the Independence of the United States of America the two hundred thirty-seventh and of the Statehood of Idaho the one hundred twenty-third.

BY THE GOVERNOR:

/s/ C.L. "BUTCH" OTTER  
GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA  
SECRETARY OF STATE

PROPOSITION NO. 03

Short Ballot Title      Referendum to approve or reject legislation amending school district funding, requiring provision of computing devices and online courses for high school graduation.

Long Ballot Title      Referendum to approve or reject S1184; relating to education: revising Idaho Code by amending 33-125, to provide for a fiscal report card; repealing 33-129 relating to science education matching grants; amending 33-357 relating to a certain internet website; amending 33-1002 relating to the educational support program; adding new section 33-1002A relating to fractional average daily attendance; amending 33-1004 relating to staff allowances; amending 33-1004A relating to the experience and education multiplier; amending 33-1004E relating to district's salary-based apportionment; amending 33-1004F relating to obligations to the public employee retirement system and social security; amending 33-1020 relating to moneys distributed to the Idaho Digital Learning Academy; adding new section 33-1021 relating to distribution of moneys to school districts for certain math and science courses; adding new section 33-1022 relating to public school technology and expenditures or distributions of moneys for such; adding new section 33-1626 relating to dual credit; adding new section 33-1627 relating to online courses and mobile computing devices and providing certain expenditures or distributions of moneys; adding new section 33-5216 relating to public postsecondary institutions being authorized to operate public charter high schools.

## SENATE BILL NO. 1184

## AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-125, IDAHO CODE, TO PROVIDE FOR A FISCAL REPORT CARD; REPEALING SECTION 33-129, IDAHO CODE, RELATING TO MATCHING GRANTS FOR SCIENCE EDUCATION PROGRAMS; AMENDING SECTION 33-357, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CERTAIN INTERNET BASED WEBSITE; AMENDING SECTION 33-1002, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE EDUCATIONAL SUPPORT PROGRAM; AMENDING SECTION 33-1002, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE EDUCATIONAL SUPPORT PROGRAM; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1002A, IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO FRACTIONAL AVERAGE DAILY ATTENDANCE; AMENDING SECTION 33-1004, IDAHO CODE, TO REVISE PROVISIONS RELATING TO STAFF ALLOWANCES; AMENDING SECTION 33-1004A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE EXPERIENCE AND EDUCATION MULTIPLIER; AMENDING SECTION 33-1004E, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DISTRICT'S SALARY-BASED APPORTIONMENT; AMENDING SECTION 33-1004F, IDAHO CODE, TO REVISE PROVISIONS RELATING TO OBLIGATIONS TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM AND TO SOCIAL SECURITY; AMENDING SECTION 33-1020, IDAHO CODE, TO REVISE PROVISIONS RELATING TO MONEYS DISTRIBUTED TO THE IDAHO DIGITAL LEARNING ACADEMY; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1021, IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO THE DISTRIBUTION OF MONEYS TO SCHOOL DISTRICTS FOR CERTAIN MATH AND SCIENCE COURSES; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1022, IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO PUBLIC SCHOOL TECHNOLOGY AND TO PROVIDE PROVISIONS RELATING TO THE EXPENDITURES OR DISTRIBUTIONS OF MONEYS FOR SUCH; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1626, IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO DUAL CREDIT; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1627, IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO ONLINE COURSES AND MOBILE COMPUTING DEVICES AND TO PROVIDE FOR CERTAIN EXPENDITURES OR DISTRIBUTIONS OF MONEYS; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5216, IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO PUBLIC POSTSECONDARY INSTITUTIONS BEING AUTHORIZED TO OPERATE PUBLIC CHARTER HIGH SCHOOLS; TO PROVIDE THAT NOTHING IN THIS ACT SHALL PREVENT THE LEGISLATURE FROM ADJUSTING COMPONENTS OF CERTAIN FUNDING FORMULAS PURSUANT TO THE NEEDS OF PUBLIC SCHOOLS AND THE CONSTITUTIONAL REQUIREMENT THAT THE STATE MAINTAIN A BALANCED BUDGET; PROVIDING SEVERABILITY; AND PROVIDING EFFECTIVE DATES.

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

SECTION 31. That Section 33-125, Idaho Code, be, and the same is hereby amended to read as follows:

33-125. STATE DEPARTMENT OF EDUCATION -- CREATION -- DUTIES. There is hereby established as an executive agency of the state board of education a department known as the state department of education. The state superintendent shall serve as the executive officer of such department and shall have the responsibility for carrying out policies, procedures and duties authorized by law or established by the state board of education for all elementary and secondary school matters, and to ~~administer grants for the promotion of science education as provided in sections 33-128 and 33-129, Idaho Code~~ post a fiscal report card on each school district and charter school on the department's internet site. The department shall perform the duties assigned to it as specified in section 67-5745D, Idaho Code, relating to the Idaho education network.

SECTION 32. That Section 33-129, Idaho Code, be, and the same is hereby repealed.

SECTION 33. That Section 33-357, Idaho Code, be, and the same is hereby amended to read as follows:

33-357. CREATION OF INTERNET BASED EXPENDITURE WEBSITE. (1) As used in this section, unless otherwise required:

(a) "Education provider" means:

- (i) A school district, including a specially chartered district organized and existing pursuant to law;
- (ii) A cooperative services agency or ~~intermediate school district~~;
- (iii) A public charter school authorized pursuant to state law;
- (iv) A publicly funded governmental entity established by the state for the express purpose of providing online courses.

(b) "Entity" means a corporation, association, union, limited liability company, limited liability partnership, grantee, contractor, local government or other legal entity, including a nonprofit corporation or an employee of the education provider.

(c) "Public record" shall have the same meaning as set forth in chapter 3, title 9, Idaho Code.

(2) (a) No later than December 1, 2011, each education provider shall develop and maintain a publicly available website where the education provider's expenditures are posted in a nonsearchable PDF format, a searchable PDF format, a spreadsheet or in a database format.

(b) The internet based website shall include the following data concerning all expenditures made by the education provider:

- (i) The name and location or address of the entity receiving moneys;
- (ii) The amount of expended moneys;
- (iii) The date of the expenditure;
- (iv) A description of the purpose of the expenditure, unless the expenditure is self-describing;
- (v) Supporting contracts and performance reports upon which the expenditure is related when these documents already exist; and
- (vi) To the extent possible, a unique identifier for each expenditure;
- (vii) The annual budget approved by the education provider's governing board, to be posted within thirty (30) days after its approval; and
- (viii) Any current master labor agreements approved by the education provider's governing board.

(c) The expenditure data shall be provided in an open structured data format that may be downloaded by the user.

(d) The internet based website shall contain only information that is a public record or that is not confidential or otherwise exempt from public disclosure pursuant to state or federal law.

(3) The education provider shall:

(a) Update the expenditures contained on the internet based website at least monthly;

(b) Archive all expenditures, which shall remain accessible and on the internet based website for a number of years, consistent with state law regarding keeping and retention of records;

(c) Make the internet based website easily accessible from the main page of the education provider's website; and

(d) The website shall include those records beginning on the effective date of this act on July 1, 2011, and all data prior to that date shall be available by way of a public records request.

SECTION 34. 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 programs provided in section 33-1022, Idaho Code;~~

(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 dual credit courses as provided in section 33-1626, Idaho Code;

(m) For additional math and science courses for high school students as provided in section 33-1021, Idaho Code;

(n) For certificated employee severance payment reimbursement as provided in section 33-515B, Idaho Code;

(o) 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

(mp) 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
<u>.01</u> - 7.99 ADA . . . .	- . . . . .	count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

Average Daily		Minimum Units
Attendance	Attendance Divisor	Allowed
300 or more ADA . . . . .	. . . . .	.. 15
	..23...grades 4,5 & 6 . . . .	
	..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
<u>1.01</u> to 16.5 ADA . . . .	n/a . . . . .	1.0

COMPUTATION OF SECONDARY SUPPORT UNITS

Average Daily		Minimum Units
Attendance	Attendance Divisor	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
<del>Grades 7-9</del>	.....	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
<u>.01</u> - 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 tenth.

(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 tenth 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 tenth, 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 35. 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 public school technology as provided in section 33-1022, Idaho Code;

(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 dual credit courses as provided in section 33-1626, Idaho Code;
- (m) For additional math and science courses for high school students as provided in section 33-1021, Idaho Code;
- (n) For costs associated with mobile computing devices and teacher training as provided in section 33-1627, Idaho Code;
- (o) For certificated employee severance payment reimbursement as provided in section 33-515B, Idaho Code;
- (p) For pay for performance as provided in section 33-1004I, Idaho Code;
- (eq) 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
- (pr) 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
.01 - 7.99 ADA . . . .	- . . . . .	count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

Average Daily		Minimum Units
Attendance	Attendance Divisor	Allowed
300 or more ADA . . . . .	. . . . .	. . . 15
	..23...grades 4,5 & 6 . . . .	
	..22...grades 1,2 & 3 . . . .1994-95	
	..21...grades 1,2 & 3 . . . .1995-96	
	..20...grades 1,2 & 3 . . . .1996-97	

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
	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
.01 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- 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
.01 - 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 tenth.

(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 tenth 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 tenth, 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 36. 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 33-1002A, Idaho Code, and to read as follows:

33-1002A. FRACTIONAL AVERAGE DAILY ATTENDANCE. (1) For students attending school in more than one (1) school district or public charter school, or who are enrolled in one (1) or more online courses in which the student's home school district or public charter school is not the content provider, attendance shall be counted and divided based on the portion of the student's daily attendance time that is spent in attendance at each school district, public charter school or online course. This provision shall not apply to:

(a) An online course in which the school district or public charter school has a contract in place for the provision of online courses.

(b) Any online course which causes the total number of courses in which a student is enrolled to exceed the maximum number of periods of instruction offered at the school in which the student is enrolled. If a student is enrolled in multiple online courses and one (1) or more online course falls within this limitation and one (1) or more fall beyond it, then the most expensive courses shall be subject to fractional average daily attendance. School districts and public charter schools may choose to pay for any online courses that fall beyond the limitation of this paragraph, at their discretion. The parents or guardians of students shall be responsible for paying the cost of any online courses in which the student is enrolled beyond the limitation of this paragraph, unless such cost has been paid by the student's school district or public charter school. A student's home school district or public charter school shall notify the student's parent or guardian at the time of registration if any online courses in which the student is enrolling exceed the maximum provided in this paragraph.

(2) For online courses subject to fractional counting and division, the average daily attendance shall be counted and funded as part of the student's home school district or public charter school attendance. However, the state department of education shall identify the fraction attributable to such attendance for each student and furnish the home school district or public charter school with a dollar amount of funding attributable to each such fraction. The home school district or public charter school shall then remit two-thirds (2/3) of such amount to each online course content provider.

(3) For the purposes of this section and section 33-1627, Idaho Code, the term "online course" means a course which delivers a sequential program of synchronous and/or asynchronous instruction primarily through the use of technology, in which the instructor is not physically located at the school or place in which the student is receiving instruction. Nothing in this definition shall prohibit a blended course that includes face-to-face, in person instruction, provided that a majority of the instruction is delivered as stated herein.

SECTION 37. 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 paragraphs (i) and (ii) of this subsection, 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 fivefifteen percent (15%) of the monies 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 educa-

tion 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 fewer positions than funded pursuant to subsection (2) of this section, without a reduction in the number of funded positions being imposed, subject to the following limits on the percent of such positions that may be reduced:

<u>Fiscal Year</u>	<u>Percentage</u>
<u>2012</u>	<u>6%</u>
<u>2013</u>	<u>8%</u>
<u>2014 and each fiscal year thereafter</u>	<u>10%</u>

(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.

SECTION 38. That Section 33-1004A, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004A. EXPERIENCE AND EDUCATION MULTIPLIER. Each instructional and administrative staff position shall be assigned an appropriate multiplier based upon the following table:

EXPERIENCE AND EDUCATION

	MA	MA + 12	MA + 24	MA + 36	MA + 48	MA + 60	MA + 36
Years	BA	BA + 12	BA + 24	BA + 36	BA + 48	BA + 60	ES/DR
0	1.00000	1.03750	1.07640	1.11680	1.15870	1.20220	1.24730
1	1.03750	1.07640	1.11680	1.15870	1.20220	1.24730	1.29410
2	1.07640	1.11680	1.15870	1.20220	1.24730	1.29410	1.34260
3	1.11680	1.15870	1.20220	1.24730	1.29410	1.34260	1.39290
4	1.15870	1.20220	1.24730	1.29410	1.34260	1.39290	1.44510
5	1.20220	1.24730	1.29410	1.34260	1.39290	1.44510	1.49930
6	1.24730	1.29410	1.34260	1.39290	1.44510	1.49930	1.55550
7	1.29410	1.34260	1.39290	1.44510	1.49930	1.55550	1.61380
8	1.34260	1.39290	1.44510	1.49930	1.55550	1.61380	1.67430
9	1.39290	1.44510	1.49930	1.55550	1.61380	1.67430	1.73710
10	1.39290	1.49930	1.55550	1.61380	1.67430	1.73710	1.80220
11	1.39290	1.49930	1.55550	1.61380	1.73710	1.80220	1.86980
12	1.39290	1.49930	1.55550	1.61380	1.73710	1.86980	1.93990
13 or more	1.39290	1.49930	1.55550	1.61380	1.73710	1.86980	2.01260

In determining the experience factor, the actual years of teaching or administrative service in a public school, in an accredited private or parochial school, or beginning in the 2005-06 school year and thereafter

in an accredited college or university shall be credited, minus two (2); provided however, that the experience factor cannot be less than zero (0).

In determining the education factor, only credits earned after initial certification, based upon a transcript on file with the teacher certification office of the state department of education, earned at an institution of higher education accredited by the state board of education or a regional accrediting association, shall be allowed. Provided however, that successful completion of a state-approved mathematical thinking for instruction course shall be counted as transcribed credit. Instructional staff whose initial certificate is an occupational specialist certificate shall be treated as BA degree prepared instructional staff. Credits earned by such occupational specialist instructional staff after initial certification shall be credited toward the education factor. ~~For the time period July 1, 2010, through June 30, 2011, instructional and administrative staff shall not advance on the education portion of the multiplier table.~~

In determining the statewide average multiplier for instructional staff, no multiplier in excess of 1.59092 shall be used. If the actual statewide average multiplier for instructional staff, as determined by this section, exceeds 1.59092, then each school district's instructional staff multiplier shall be multiplied by the result of 1.59092 divided by the actual statewide average multiplier for instructional staff.

In determining the statewide average multiplier for administrative staff, no multiplier in excess of 1.86643 shall be used. If the actual statewide average multiplier for administrative staff, as determined by this section, exceeds 1.86643, then each school district's administrative staff multiplier shall be multiplied by the result of 1.86643 divided by the actual statewide average multiplier for administrative staff.

SECTION 39. That Section 33-1004E, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004E. DISTRICT'S SALARY-BASED APPORTIONMENT. Each district shall be entitled to a salary-based apportionment calculated as provided in this section.

1. To determine the apportionment for instructional staff, first determine the district average experience and education index by placing all eligible district certificated instructional employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. ~~Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the 1994-95 school year, and shall receive their actual index but not more than the state average plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index.~~ The district instructional staff index shall be multiplied by the instructional base salary of \$23,565. The amount so determined shall be multiplied by the district staff allowance for instructional staff determined as provided in section 33-1004(2), Idaho Code. The instructional salary allocation shall be further increased by the amount necessary for each full-time equivalent instructional staff member placed on the experience and education index to be allocated at least the minimum salary mandated by this section. Full-time instructional staff salaries shall be determined from a salary schedule developed by each district and submitted to the state department of education. No full-time instructional staff member shall be paid less than \$29,65530,000. ~~If an instructional staff member has been certified by the national board for professional teaching standards, the staff member shall be designated as a master teacher and receive \$2,000 per year for five (5) years. The instructional salary shall be increased by \$2,000 for each master teacher provided however, that no such awards shall be paid for the period July 1, 2010, through June 30, 2011, nor shall any liabilities accrue or payments~~

~~be made pursuant to this section in the future to any individuals who would have otherwise qualified for a payment during this stated time period. The resulting amount is the district's salary-based apportionment for instructional staff. For purposes of this section, teachers qualifying for the salary increase as master teacher shall be those who have been recognized as national board certified teachers as of July 1 of each year. After the base and minimum salaries established pursuant to this subsection have reached the amounts that were in effect in fiscal year 2009, all further increases to these base and minimum salaries shall be allocated such that the percentage increase in the minimum salary is one and one-half (1.5) times the percentage increase in the base salary.~~

2. To determine the apportionment for district administrative staff, first determine the district average experience and education index by placing all eligible certificated administrative employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. ~~Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the school year 1994-95, and shall receive their actual index but not more than the state average index plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index.~~ The district administrative staff index shall be multiplied by the base salary of \$32,441. The amount so determined shall be multiplied by the district staff allowance for administrative staff determined as provided in section 33-1004(3), Idaho Code. The resulting amount is the district's salary-based apportionment for administrative staff.

3. To determine the apportionment for classified staff, multiply \$19,041 by the district classified staff allowance determined as provided in section 33-1004(4), Idaho Code. The amount so determined is the district's apportionment for classified staff.

4. The district's salary-based apportionment shall be the sum of the apportionments calculated in subsections 1., 2. and 3., of this section, adjusted by the following percentages:

<u>Fiscal Year</u>	<u>Percentage</u>
<u>2012</u>	<u>(1.67%)</u>
<u>2013</u>	<u>(4.05%)</u>
<u>2014</u>	<u>(6.30%)</u>
<u>2015</u>	<u>(6.42%)</u>
<u>2016</u>	<u>(6.21%)</u>
<u>2017 and each fiscal year thereafter</u>	<u>(5.74%)</u>

plus the benefit apportionment as provided in section 33-1004F, Idaho Code.

SECTION 40. 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, plus distributions made pursuant to section 33-1004I, 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 41. That Section 33-1020, Idaho Code, be, and the same is hereby amended to read as follows:

33-1020. IDAHO DIGITAL LEARNING ACADEMY FUNDING. Of the moneys appropriated for the educational support program, an amount shall be distributed to support the Idaho digital learning academy, created pursuant to chapter 55, title 33, Idaho Code. For the purposes of this section, an "enrollment" shall be counted each time an Idaho school age child enrolls in an Idaho digital learning academy class. A single child enrolled in multiple classes shall count as multiple enrollments. Summer enrollments shall be included in the fiscal year that begins that summer. The amount distributed shall be calculated as follows:

(1) A fixed base amount shall be distributed, equal to the current fiscal year's statewide average salary-based apportionment funding per midterm support unit, multiplied by seven (7).

(2) A variable base amount shall be distributed each time the number of enrollments meets or exceeds an increment of five thousand (5,000). The amount so distributed shall be equal to the number of such increments, multiplied by the current fiscal year's statewide average salary-based apportionment funding per midterm support unit, multiplied by four and thirty-three hundredths (4.33).

~~(3) A variable amount shall be distributed, equal to the number of enrollments multiplied by the current fiscal year's statewide average salary-based apportionment funding per midterm support unit, divided by one hundred forty-three (143).~~

If the revenue received by the Idaho digital learning academy pursuant to this section, section 33-1002A, Idaho Code, and any contracts with school districts or public charter schools, is less than \$3,500,000 in fiscal year 2013 or fiscal year 2014, then the moneys distributed to the Idaho digital learning academy pursuant to this section shall be increased by the amount necessary to ensure that the total dollars received by the Idaho digital learning academy from all such sources is equal to \$3,500,000 for each of the stated fiscal years.

The state department of education shall make an estimated distribution of funds to the Idaho digital learning academy by no later than July 31 of each fiscal year, consisting of eighty percent (80%) of the estimated funding for the fiscal year. The balance of all remaining funds to be distributed, pursuant to the calculations in this section, shall be distributed by no later than May 15 of the same fiscal year.

SECTION 42. 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 33-1021, Idaho Code, and to read as follows:

33-1021. MATH AND SCIENCE REQUIREMENT. In order to meet state graduation requirements regarding math and science courses, moneys shall be distributed to school districts to defray the cost of providing additional math and science courses. Moneys so distributed shall be used to hire additional high school math and science teachers or to defray costs associated with providing math and science courses to high school students. Moneys shall be distributed to school districts from the moneys appropriated to the educa-

tional support program for each regular high school, not including alternative schools, based on the following criteria:

(1) For each school with enrollment of 99 or less, distribute the equivalent of one ninth (1/9) of a classified staff position.

(2) For each school with enrollment of 100 to 159, distribute the equivalent of one and one-quarter (1.25) of a classified staff position.

(3) For each school with enrollment of 160 to 319, distribute the equivalent of two sevenths (2/7) of a classified staff position.

(4) For each school with enrollment of 320 to 639, distribute the equivalent of one (1.0) instructional staff position, based on the statewide average funding per position.

(5) For each school with enrollment of 640 or more, distribute the equivalent of one (1.0) instructional staff position, based on the statewide average funding per position, and three-quarters (0.75) of a classified staff position.

For the purposes of these school size classifications for regular high schools that serve only grades 10-12, ninth grade students who will attend the regular high school upon matriculating to tenth grade shall be included as enrolled in the regular high school.

SECTION 43. 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 33-1022, Idaho Code, and to read as follows:

33-1022. PUBLIC SCHOOL TECHNOLOGY. (1) Moneys shall be expended or distributed from the educational support program for public school technology as follows:

(a) For fiscal year 2012, an amount equal to one hundred eighty-six (186) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds. Of this amount, the following percentages shall be utilized pursuant to the following paragraphs of subsection (3) of this section:

Subsection (3)	Percentage
Paragraphs (a) and (c)	77%
Paragraph (d)	23%

(b) For fiscal year 2013, an amount equal to one hundred ninety-one (191) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds. Of this amount, the following percentages shall be utilized pursuant to the following paragraphs of subsection (3) of this section:

Subsection (3)	Percentage
Paragraphs (a) and (c)	77%
Paragraph (d)	23%

(c) For fiscal year 2014, an amount equal to one hundred ninety-five (195) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds. Of this amount, the following percentages shall be utilized pursuant to the following paragraphs of subsection (3) of this section:

Subsection (3)	Percentage
Paragraph (a)	16%
Paragraph (b)	36%
Paragraph (c)	31%
Paragraph (d)	17%

(d) For fiscal year 2015, an amount equal to one hundred ninety-five (195) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds. Of this amount, the following percentages shall be utilized pursuant to the following paragraphs of subsection (3) of this section:

Subsection (3)	Percentage
Paragraph (a)	16%
Paragraph (b)	36%
Paragraph (c)	31%
Paragraph (d)	17%

(e) For fiscal year 2016, an amount equal to one hundred fifty-seven (157) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds. Of this amount, the following percentages shall be utilized pursuant to the following paragraphs of subsection (3) of this section:

Subsection (3)	Percentage
Paragraph (a)	18%
Paragraph (b)	41%
Paragraph (c)	35%
Paragraph (d)	6%

(f) For fiscal year 2017 and each fiscal year thereafter, an amount equal to one hundred fifty-seven (157) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds. Of this amount, the following percentages shall be utilized pursuant to the following paragraphs of subsection (3) of this section:

Subsection (3)	Percentage
Paragraph (a)	20%
Paragraph (b)	37%
Paragraph (c)	37%
Paragraph (d)	6%

(g) The dollars allocated for paragraphs (a) through (d) of subsection (3) of this section may be reallocated among said subsections by the superintendent of public instruction, subject to a ten percent (10%) maximum cumulative change in the allocated amounts.

(2) For the purposes of subsection (1) of this section, the support unit figure used shall be statewide support units used to calculate the distribution of salary-based apportionment funds in the current fiscal year.

(3) Moneys expended or distributed pursuant to this section shall be utilized for one (1) or more of the following:

(a) Moneys shall be expended for the installation, repair, replacement and support of wireless technology in each public school serving high school grades, of sufficient capacity to support utilization of mobile computing devices by all students in such grades.

(b) Moneys shall be expended for high quality digital learning resources and software linked to state and local curricula, including model lesson plans, content and formative and summative assessments tied to rigorous college and career-ready standards and safe and secure online knowledge sharing and collaboration systems.

(c) Moneys shall be expended or distributed for classroom technology that assists teachers in the effective and efficient delivery of in-

struction. At least ninety-seven percent (97%) of the moneys expended or distributed for this paragraph shall be distributed to school districts, public charter schools and the Idaho school for the deaf and blind.

(d) Moneys shall be expended or distributed for professional development and training that promotes the effective use of technology by students, staff and parents, the integration of technology into public school curricula and instructional methods, and the development of plans at the school, district and statewide level for the improved use and integration of technology in learning. As part of this paragraph, the superintendent of public instruction shall convene a task force to study and develop plans for the implementation of online course requirements, including the issue of online summer and overload courses, and the provision and support of one-to-one mobile computing devices for students, including an examination of the experience of other states and school districts, beginning in the 2012-2013 school year, and other topics determined by the task force chairman. The superintendent of public instruction shall serve as the task force chairman, and shall appoint to the task force, at a minimum, four (4) school district superintendents, two (2) school district technology directors, two (2) secondary school principals, one (1) school district business manager, one (1) head of school of a public virtual charter school, one (1) head of school of a traditional public charter school serving at least grades 9-12, two (2) secondary school classroom teachers, one (1) private sector education technology expert who is neither employed by, represents, nor is an agent of any entity that provides online courses or mobile computing devices and three (3) representatives of the business community. In addition, the Idaho house of representatives and the Idaho senate shall each appoint two (2) members, and each of the following organizations shall appoint one (1) individual to the task force: Idaho education association, northwest professional educators, Idaho school boards association, Idaho association of school administrators, Idaho business coalition for education excellence, Idaho digital learning academy and the office of the governor. The superintendent shall report the findings, plans and recommendations of this task force, including any recommendations for changes to statute or rule, to the senate and house of representatives education committees by no later than January 31, 2012.

(4) The state superintendent of public instruction shall include information on the uses, planned uses and impact of moneys distributed pursuant to this section as part of the annual report required by section 33-4805, Idaho Code.

SECTION 44. 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 33-1626, Idaho Code, and to read as follows:

33-1626. DUAL CREDIT FOR EARLY COMPLETERS. Students completing all state high school graduation requirements, except the senior project, by no later than the start of the twelfth grade shall be eligible for up to thirty-six (36) postsecondary credits of dual credit courses during their twelfth grade year. Average daily attendance shall be counted as normal for such twelfth grade students for public school funding purposes. In addition, the state department of education shall distribute funds from the moneys appropriated for the educational support program to defray the per credit cost charged for such dual credit courses by accredited postsecondary institutions. The amount so distributed shall not exceed seventy-five dollars (\$75.00) per credit hour.

SECTION 45. 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 33-1627, Idaho Code, and to read as follows:

33-1627. ONLINE COURSES -- MOBILE COMPUTING DEVICES AND TEACHER TRAINING. (1) The legislature finds that in order to better provide students with the skills that they will need to be successful as students, employees, entrepreneurs and parents in the future, more exposure is needed to online learning and informational environments.

(2) Beginning with the 2012-2013 school year, parents and guardians of secondary students shall have the right to enroll such students in any online course, with or without the permission of the school district or public charter school in which the student is enrolled, provided the following criteria are met:

(a) The course is offered by a provider accredited by the organization that accredits Idaho high schools, or an organization whose accreditation of providers is recognized by the organization that accredits Idaho high schools;

(b) The state department of education has verified that the teacher is certificated by the state of Idaho and is qualified to teach the course;

(c) The state department of education or the Idaho digital learning academy has verified that the course meets state content standards;

(d) The parent or guardian registers the student for the course through the school district or public charter school's normal registration process, which shall be made to accommodate enrollment in courses meeting the requirements of paragraphs (a) through (c) of this subsection. Provided however, that school districts and public charter schools shall accommodate such enrollment requests if a student's parent or guardian makes such request no later than thirty (30) days prior to the end of the term immediately previous to the one for which the student is enrolling, or no later than the end of the school year, in the case of a term ending at the end of the school year.

(3) A student's transcript at the school district or public charter school at which the student is enrolled shall include the credits earned and grades received by each student for any online courses taken pursuant to this section.

(4) In order to assist in providing students with access to online courses, the state department of education shall contract for the provision of mobile computing devices for the students and teachers of each high school. Such devices shall be provided to all high school teachers beginning in the 2012-2013 school year, unless the teacher already has a computing device available and requests that one not be provided. Such devices for teachers shall be replaced every four (4) years. Devices shall be provided for high school students beginning in the 2013-2014 school year. The number of devices provided to students each year shall be equal to one-third (1/3) of the high school students through the 2015-2016 school year, after which the number shall be equal to the number of ninth grade students. School districts and public charter schools in which high school begins in tenth grade may elect to have all of the provisions of this section that apply to ninth grade students apply instead to tenth grade students. School districts and public charter schools that already have one (1) modern functioning computing device for each student in each appropriate class in grades 9-12 who is able to use such a device shall receive an allocation of funds equal to the cost of purchasing mobile computing devices pursuant to this section, in lieu of receiving such devices, to be used at the school district or public charter school's discretion. The department shall use the same laws, rules and policies in issuing and awarding such contract as would an executive branch agency in which an appointed director reports directly to the governor. Such devices shall include technology that provides for

compliance with the provisions of section 33-132, Idaho Code. Such contract shall also provide for the maintenance, repair and technical support of such devices. The cost of such contract and distributions made pursuant to this subsection shall be paid from the moneys appropriated for the educational support program. Each school district or public charter school shall develop a policy on student use of the mobile computing devices outside of the school day. Such policy shall be in compliance with the provisions of section 33-132, Idaho Code. The state department of education shall develop a policy addressing the issue of damage, loss, repair and replacement of the mobile computing devices.

(5) The state department of education shall expend or distribute an amount equal to twelve (12) multiplied by the per statewide support unit value of salary-based apportionment and discretionary funds for fiscal year 2013 through fiscal year 2016, from the amount appropriated to the educational support program, to train high school staff in the use of mobile computing devices by students in the classroom, and the integration of such use into the curriculum. For the purposes of this subsection, the support units used to calculate this statewide figure shall be the statewide support units used to calculate the distribution of salary-based apportionment funds in the current fiscal year.

(6) The state board of education shall promulgate rules to implement the provisions of this section, including a requirement for online courses needed for graduation beginning with the graduating class of 2016, and the development of digital citizenship standards for students to which this graduation requirement applies.

SECTION 46. That Chapter 52, 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 33-5216, Idaho Code, and to read as follows:

33-5216. PUBLIC POSTSECONDARY INSTITUTIONS -- PUBLIC CHARTER HIGH SCHOOLS. (1) Any public postsecondary institution located in this state is hereby authorized to operate a public charter high school in Idaho. The provisions of chapter 52, title 33, Idaho Code, shall apply to each such public charter high school in the same manner and to the same extent as the provisions of charter school law apply to other public charter schools, with the exception of certain conditions and applications as specifically provided in this section.

(2) With the consent of the state board of education, a public postsecondary institution may petition to establish a public charter high school to the public charter school commission or to the local board of trustees. Any provision or reference to the public charter school commission found in chapter 52, title 33, Idaho Code, shall mean, for the purposes of this section, the state board of education.

(3) The president or chief executive officer of such postsecondary institution, or his designee(s), shall serve as the board of trustees of any public charter high school opened for educational instruction pursuant to this section.

(4) For the purposes of this section, the term "high school" means a school serving any grades from ninth grade or higher.

SECTION 47. Nothing in this act shall prevent the Legislature from adjusting any component of any public school funding formula in any fiscal year, pursuant to the needs of public schools and the constitutional requirement that the state of Idaho maintain a balanced budget.

SECTION 48. 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 49. Sections 1, 2, 3, 4, 7, 8, 9, 12, 13, 14, 15, 16, 17 and 18 of this act shall be in full force and effect on and after July 1, 2011. Sections 5, 6, 10 and 11 of this act shall be in full force and effect on and after July 1, 2012.



*The Office of the Governor  
Proclamation*

WHEREAS, the Secretary of State and the State Board of canvassers, in the presence of the Governor, have canvassed the votes cast on November 6, 2012, concerning Proposition Three (A Referendum to approve or reject legislation amending school district funding, requiring provision of computing devices and online courses for high school graduation.); and,

WHEREAS, the results show that the said Proposition Three has received 215,800 "Yes" votes, 432,667 "No" votes,

NOW, THEREFORE, BE IT RESOLVED I, C.L. "Butch" Otter, Governor of the State of Idaho, pursuant to Section 34-1813, Idaho Code, do hereby proclaim that Proposition Three (Senate Bill 1184, Chapter 247 of the 2011 Session Laws) has been repealed by the people of the State of Idaho.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 21st day of November in the year of our Lord 2012, and of the Independence of the United States of America the two hundred thirty-seventh and of the Statehood of Idaho the one hundred twenty-third.

BY THE GOVERNOR:

/s/ BEN YSURSA  
SECRETARY OF STATE

/s/ C.L. "BUTCH" OTTER  
GOVERNOR OF THE STATE OF IDAHO



# **EXECUTIVE ORDERS**



EXECUTIVE ORDER NO. 2012-03GOVERNOR'S TASK FORCE FOR CHILDREN AT RISK

WHEREAS, Idaho's children are her most valuable resource; and  
WHEREAS, it is the responsibility of all Idahoans to provide a community system of support and protection for these children; and  
WHEREAS, the protection of children from abuse and neglect is in the best interest of all Idahoans; and  
NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the authority vested in me by the Constitution and the laws of the State of Idaho, do hereby order the continuance of the Governor's Task Force on Children at Risk (Task Force).

The Task Force is responsible for reviewing and developing programs, as well as facilitating local jurisdictions to operate programs designed to improve:

- a. The handling of child abuse and neglect cases, particularly cases of child sexual abuse and exploitation;
- b. The handling of cases of suspected child abuse or neglect related fatalities;
- c. The investigation and prosecution of cases of child abuse and neglect, particularly child sexual abuse and exploitation; and
- d. The handling of cases involving children with disabilities or serious health-related problems who are victims of abuse or neglect.

Further, the Task Force shall establish and support a statewide child fatality review team (CFRT) to allow comprehensive and multidisciplinary review of deaths of children younger than 18 years-old, in order to identify what information and education may improve the health and safety of Idaho's children. The statewide CFRT established and supported by the Task Force is separate and apart from child death reviews convened by the Department of Health and Welfare in circumstances where the death of a child is suspected or confirmed to have resulted from abuse or neglect.

The Task Force shall be composed of not more than 18 members appointed by the Governor. The membership shall include, but will not be limited to, the following with consideration of geographical representation:

Law Enforcement Community

Criminal Court Judge

Civil Court Judge

Prosecuting Attorney

Defense Attorney

Child Advocate Attorney for Children

Court Appointed Special Advocate Representative (where such programs operate)

Health Professional

Mental Health Professional

Child Protective Service Agency

Individual experience in working with children with disabilities  
 Parent Group Representative  
 Education Representative  
 Juvenile Justice Representative  
 Adult former victim of child abuse or neglect  
 Individual experienced in working with homeless children/youth

The members of the Task Force shall serve at the pleasure of the Governor for a four-year term. Members of the Task Force shall elect their chair from among their members.

The Task Force shall submit a written report by June 1 of each year to document its achievements.

The Department of Health and Welfare shall be the fiscal agent, providing support for the Task Force, and shall monitor contracts for staff to carry out the activities directed by the Task Force, as Children's Justice Act Grant funding is available.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 8th day of May in the year of our Lord 2012, and of the Independence of the United States of America the two hundred thirty-sixth and of the Statehood of Idaho the one hundred twenty-second.

BY THE GOVERNOR:

/s/ C.L. "BUTCH" OTTER  
 GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA  
 SECRETARY OF STATE

EXECUTIVE ORDER NO. 2012-04

ESTABLISHING THE WORKFORCE DEVELOPMENT COUNCIL FOR PLANNING  
 AND OVERSIGHT OF THE STATE'S WORKFORCE DEVELOPMENT SYSTEM  
 REPEALING AND REPLACING EXECUTIVE ORDER 2010-02

WHEREAS, the economic future of Idaho and the prosperity of its residents depends upon the ability of businesses in Idaho to compete in the world economy; and

WHEREAS, a well-educated and highly skilled workforce provides businesses in Idaho with a competitive edge critical for their success; and

WHEREAS, Idaho is committed to preparing its current and future workforce with the skills necessary for the 21st century; and

WHEREAS, empowering business, labor and community leaders to take a more active and strategic role in crafting the state's economic and workforce development policy will enhance the quality and responsiveness of these programs; and

WHEREAS, a comprehensive workforce development strategy for Idaho will improve planning and oversight functions; improve the effectiveness, quality and coordination of services designed to maintain a highly skilled work-

force; and help provide for the most efficient use of federal, state and local workforce development resources;

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and the laws of this state, do hereby order that:

1. The Idaho Workforce Development Council (the "Council") is established in accordance with section 111(e) and 117(c)(2)(A) of the Workforce Investment Act (WIA) of 1998, as amended.
2. The Council shall consist of not more than 33 members appointed by the Governor, consistent with federal nomination and composition requirements set forth in section 702 of the Job Training Partnership Act as amended. The Council's membership, shall be as follows:
  - a. Representatives of business and industry shall comprise at least 40% of the members;
  - b. At least 15% of the members shall be representatives of local public education, postsecondary institutions, and secondary or postsecondary vocational educational institutions;
  - c. At least 15% of the members shall be representatives of organized labor based on nominations from recognized state labor federations;
  - d. Representatives from the Department of Commerce, Department of Labor, the Department of Health and Welfare, the State Board of Education, the Commission on Aging, the Office of Energy Resources, the Idaho Education Network, and the Superintendent of Public Instruction; and
  - e. A representative of a community-based organization.
3. The Council will be responsible for advising the Governor and the State Board of Education, as appropriate and at regular intervals, on the following:
  - a. Development of a statewide strategy for workforce development programs which encompasses all workforce programs;
  - b. Development of the WIA State plan;
  - c. Development and continuous improvement of services offered under the statewide workforce investment system;
  - d. Development of comments at least once annually on the Carl D. Perkins Vocational and applied Technology Education Act;
  - e. Development and continuous improvement of comprehensive State performance measures;
  - f. Preparation of the annual report to the United States Secretary of Labor as required under section 136 of the WIA;
  - g. Development of a statewide employment statistic program;
  - h. Development of a plan for comprehensive labor market information; and
  - i. Development of applications for an incentive grant under section 503 of the WIA.

4. The Council shall also be responsible for:
  - a. Approval and oversight of the expenditures from the Employment Security Reserve Fund as set forth in Section 72-1347A, Idaho Code;
  - b. Development and oversight of procedures, criteria and performance measures for the Workforce Development Training fund established under Section 72-1347B, Idaho Code; and
  - c. Such other duties as assigned by the Governor.
5. The Council may empanel subcommittees, appointed by the chair. Subcommittee members may include individuals from the general public who have special knowledge and qualifications to be of assistance to the Council.
6. The Governor shall name the chair and vice-chair from among the private sector members of the Council.
7. The Council shall be jointly staffed by a management team of directors or administrators of state agencies that administer workforce development programs, as designated by the Governor. Funding for the council shall be provided by the agencies staffing the council, which shall agree upon appropriate ratios for the allocation of administrative funding. The Idaho Department of Labor shall have responsibility for providing secretarial and logistical support to the Council.
8. The Council's members shall serve at the pleasure of the Governor, and appointments shall be for three-year terms.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 20th day of July in the year of our Lord 2012, and of the Independence of the United States of America the two hundred thirty-seventh and of the Statehood of Idaho the one hundred twenty-third.

BY THE GOVERNOR:

/s/ C.L. "BUTCH" OTTER  
GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA  
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2012-05  
(REPEALED AND REPLACED WITH EXECUTIVE ORDER NO. 2012-06)

CREATING THE BOARD OF JUVENILE CORRECTIONS AND DESIGNATING IT AS  
THE PRIMARY ADVISORY BODY FOR THE GOVERNOR AND THE DIRECTOR OF THE  
DEPARTMENT OF JUVENILE CORRECTIONS ON  
MATTERS PERTAINING TO JUVENILE CORRECTIONS

WHEREAS, an independent body would provide valuable recommendations on fiscal, policy and administrative matters concerning juvenile corrections

to the Governor and the Director of the Department of Juvenile Corrections (Department); and

WHEREAS, an independent body would provide a unique perspective on the development of goals, standards and measures to evaluate the effectiveness and efficiency of the Department and its programs;

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and the laws of this state, do hereby order that:

1. The Board of Juvenile Corrections (Board) is hereby designated as the primary advisory body for the Governor and the Department Director on matters pertaining to juvenile corrections.
2. The Board shall be responsible for advising the Governor and the Department Director on fiscal, policy and administrative matters concerning Idaho's Juvenile Corrections system.
3. The Board shall participate in the development of goals, standards and measures to evaluate the effectiveness and the efficiency of the Department and its programs.
4. The Board shall consist of the following members:
  - a. Three Idaho citizens;
  - b. The Chair of the Senate Judiciary and Rules Committee, or their designee; and
  - c. The Chair of the House Judiciary and Rules Committee, or their designee.
5. The Board shall serve without compensation, but shall be reimbursed by the Department for actual travel expenses not to exceed State of Idaho guidelines.
6. Representatives from Idaho's counties and the judicial branch may serve as ex-officio members.
7. Unless stated otherwise, members of the Board shall be appointed by and serve at the pleasure of the Governor and appointments shall be for six-year terms.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 1st day of August in the year of our Lord 2012, and of the Independence of the United States of America the two hundred thirty-seventh and of the Statehood of Idaho the one hundred twenty-third.

BY THE GOVERNOR:

/s/ C.L. "BUTCH" OTTER  
GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA  
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2012-06

CREATING THE BOARD OF JUVENILE CORRECTIONS AND DESIGNATING IT AS  
THE PRIMARY ADVISORY BODY FOR THE GOVERNOR AND THE DIRECTOR OF THE  
DEPARTMENT OF JUVENILE CORRECTIONS ON  
MATTERS PERTAINING TO JUVENILE CORRECTIONS  
REPEALING AND REPLACING EXECUTIVE ORDER 2012-05

WHEREAS, an independent body would provide valuable recommendations on fiscal, policy and administrative matters concerning juvenile corrections to the Governor and the Director of the Department of Juvenile Corrections (Department); and

WHEREAS, an independent body would provide a unique perspective on the development of goals, standards and measures to evaluate the effectiveness and efficiency of the Department and its programs;

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and the laws of this state, do hereby order that:

1. The Board of Juvenile Corrections (Board) is hereby designated as the primary advisory body for the Governor and the Department Director on matters pertaining to juvenile corrections.
2. The Board shall be responsible for advising the Governor and the Department Director on fiscal, policy and administrative matters concerning Idaho's Juvenile Corrections system.
3. The Board shall participate in the development of goals, standards and measures to evaluate the effectiveness and the efficiency of the Department and its programs.
4. The Board shall consist of the following members:
  - a. Three Idaho citizens;
  - b. The Chair of the Senate Judiciary and Rules Committee, or their designee; and
  - c. The Chair of the House Judiciary and Rules Committee, or their designee.
5. The Board shall serve without compensation, but shall be reimbursed by the Department for actual travel expenses not to exceed State of Idaho guidelines.
6. The Chair of the Board shall be selected by the Department Director subject to the approval of the Governor.
7. Representatives from Idaho's counties and the judicial branch may serve as ex-officio members.
8. Unless stated otherwise, members of the Board shall be appointed by and serve at the pleasure of the Governor and appointments shall be for six-year terms.





IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 15th day of August in the year of our Lord 2012, and of the Independence of the United States of America the two hundred thirty-seventh and of the Statehood of Idaho the one hundred twenty-third.

/s/ C.L. "BUTCH" OTTER

BY THE GOVERNOR:

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA  
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2012-07

ESTABLISHING THE PACIFIC NORTHWEST ECONOMIC REGION IDAHO COUNCIL

WHEREAS, the Pacific Northwest Economic Region (PNWER) was established by statute in 1991 within the organization's seven original legislative districts of Idaho, Washington, Oregon, Montana, Alaska in the United States, and British Columbia and Alberta in Canada, including the additions of Saskatchewan and the Yukon Territory and the Northwest Territories;

WHEREAS, the vision of the PNWER was to establish a collaborative region-wide bi-national organization to address common issues and interests;

WHEREAS, the Governors and Premiers were added to the governance structure in 1993, with the private sector, nonprofit organizations and nongovernmental organizations added to the working group structure in 1994;

WHEREAS, the PNWER Working Groups currently include many areas essential to Idaho's economy and social structure, including: agriculture, Arctic caucus, cross-border livestock health, border issues, security and disaster resilience, energy transmission, renewable energy, environment, health care, innovation, invasive species, sustainable development, telecom, trade and economic development, transportation, tourism, water policy, workforce development; and

WHEREAS, the public and private sectors of Idaho could significantly benefit from a designated council to coordinate the efforts of and establish regular communications amongst and between the Idaho entities and the PNWER entities.

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of this state, do hereby create the Pacific Northwest Economic Region Idaho Council.

1. The Idaho Council shall consist of the following members:
  - a. The Lieutenant Governor or his designee;
  - b. Two representatives from the Department of Commerce, including the Director or his designee;
  - c. Two representatives from the Idaho Department of Transportation, including the Director or his designee;
  - d. Two representatives of the Idaho Department of Agriculture, including the Director or her designee;
  - e. The Director of the Idaho Bureau of Homeland Security, or his designee;
  - f. The Administrator of the Idaho Office of Energy Resources;

- g. Three members of the Idaho Senate, including representation by the minority party, as chosen by the President Pro Tempore;
  - h. Three members of the Idaho House of Representatives, including representation by the minority party, as chosen by the Speaker of the House;
  - i. Five members representing the private sector as chosen by PNWER subject to the approval of the Governor; and
  - j. Designees of Idaho's Universities as chosen by PNWER subject to the approval of the Governor.
2. The Idaho Council's responsibilities including the following:
    - a. Design and develop an Idaho agenda of programs of interest in PNWER;
    - b. Provide leadership regarding Idaho's needs and opportunities related to domestic and international trade and business and government relations amongst PNWER participating entities;
    - c. Encourage the participation of Idaho's private, nonprofit and nongovernmental sector in PNWER initiatives; and
    - d. Strengthen relations with other PNWER entities by participating in and recognizing, to the extent possible, significant events and milestones such as elections, commemorations and awards.
  3. Unless stated otherwise, members of the Council shall be appointed by and serve at the pleasure of the Governor.
  4. The Lieutenant Governor shall serve as the Chair of the PNWER Idaho Council subject to the approval of the Governor.
  5. The PNWER Idaho Council shall be coordinated by a Director, chosen and remunerated by PNWER subject to the approval of the Governor.
  6. The PNWER Idaho Council shall have regular communications as determined by the majority of the Committee and bi-annual meetings called by the Chair and organized by the Director.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 13th day of September in the year of our Lord 2012, and of the Independence of the United States of America the two hundred thirty-seventh and of the Statehood of Idaho the one hundred twenty-third.

/s/ C.L. "BUTCH" OTTER

GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA  
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2012-08CONTINUING THE OFFICE OF ENERGY RESOURCES WITHIN THE OFFICE OF THE GOVERNOR  
REPEALING AND REPLACING EXECUTIVE ORDER 2011-14

WHEREAS, energy production, generation, transmission and conservation are vital to Idaho; and

WHEREAS, stable, reliable, and cost competitive long-term energy supplies are critical to the well-being and future of Idaho; and

WHEREAS, it is the responsibility of state government to coordinate energy planning and policy development for Idaho;

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the authority vested in me by the Constitution and the laws of the State of Idaho do hereby order:

1. Continuation of the "Office of Energy Resources" within the Office of the Governor.
2. The term "energy" as used in this Executive Order shall include, but is not limited to, electricity, oil, natural gas, bio-energy, nuclear energy, renewable energy, and transportation fuels.
3. The Governor shall appoint an administrator (hereafter "Administrator") to lead the Office of Energy Resources (Office). The Administrator shall serve at the pleasure of the Governor and shall be subject to confirmation by the Idaho Senate. The Administrator shall be the official in Idaho designated to oversee energy planning, policy and coordination, and to fulfill the duties provided in this Executive Order.
4. Employees of the Office shall be non-classified for the purposes of Chapter 53, Title 67 of the Idaho Code.
5. The duties, powers and authorities of the Office of Energy Resources shall include
  - a) Advising the Governor, the Legislature and other public officials of the State's energy requirements, supply, transmission, management, conservation, and efficiency efforts;
  - b) Serve as Idaho's clearing house and first point of contact for energy information, including addressing energy policy inquiries, and providing information regarding energy issues;
  - c) Coordinating the State's energy planning and policy development efforts;
  - d) Coordinating and cooperating with federal and state agencies, departments and divisions, and local governments on issues concerning the State's energy requirements, supply, transmission, management, conservation and efficiency efforts;
  - e) Pursuing and accepting federal delegation of responsibility and authority for matters that affect the energy supply, transmission, management, consumption and conservation by the citizens of Idaho other than energy codes and standards for buildings and those matters under the jurisdiction of the Idaho Public Utilities Commission;
  - f) Coordinating, supporting and overseeing the Idaho Strategic Energy Alliance;

- g) Assisting state agencies, departments, divisions and local governments to secure funding where available for energy conservation projects and renewable energy resource opportunities;
  - h) Administering low-interest energy loan programs and other forms of financial assistance for eligible projects to further promote energy efficiency efforts and overall reduced energy consumption in Idaho;
  - i) Entering into other agreements or contracts and do that which is necessary to carry out the provisions of this Executive Order and in the performance of other duties as may be directed by the Governor.
6. The Office of Energy Resources may accept private contributions, state or federal funds, funds from other public agencies or any other source. The moneys shall be expended solely for the purposes provided in this Executive Order and accounted for as provided by law.
7. All orders, regulations, contracts and licenses which are in effect at the time this Executive Order is signed shall continue in effect according to their terms until modified or terminated.
8. The duties, responsibilities and authority of this Executive Order shall not alter any existing responsibilities, jurisdiction or planning functions of state agencies established by state or federal law; nothing in this Executive Order shall be construed to provide or imply any regulatory authority by the Office of Energy Resources over public utilities that are subject to the jurisdiction of the Idaho Public Utilities Commission.

This Executive Order shall cease to be effective four years after its entry into force.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 18th day of October in the year of our Lord 2012, and of the Independence of the United States of America the two hundred thirty-seventh and of the Statehood of Idaho the one hundred twenty-third.

BY THE GOVERNOR:

/s/ C.L. "BUTCH" OTTER

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA  
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2012-09

ALLOCATING VOLUME CAP FOR QUALIFIED ENERGY CONSERVATION BONDS IN IDAHO  
CONSISTENT WITH THE PROVISIONS OF THE U.S. INTERNAL REVENUE CODE,  
AS AMENDED

WHEREAS, Sections 54D and 54A of the Internal Revenue Code of 1986, as amended by the Tax Extenders and Alternate Minimum Tax Relief Act of 2008 and by the American Recovery and Reinvestment Act of 2009 (the "Code"), permit

States and large local governments to issue Qualified Energy Conservation Bonds ("QECBs"). The Code also provides that the State shall initially allocate volume cap for QECBs to the Large Local Governments as outlined below.

WHEREAS, the Code, as amended, provides a formula for allocations of such Volume Cap, and in order to facilitate the implementation and administration of the formula for allocation of the Volume Cap throughout the State and its issuing authorities, it is necessary and desirable to issue this Executive Order

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the power vested in me by the Constitution and the laws of the State of Idaho, do hereby order and proclaim:

Section 1.

- (1) "Allocation Dollars" means the dollar amount of the Volume Cap expressed in terms of dollars. Each allotment dollar equals one dollar of Volume Cap that may be allocated under this Executive Order.
- (2) "Bonds" means the Qualified Energy Conservation Bonds for which an allocation of the Volume Cap is required by the Code.
- (3) "Code" means the Internal Revenue Code of 1986, as amended, including amendment by the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 and the American Recovery and Reinvestment Act of 2009, and any related regulations including without limitation the Notice, all as may be amended or supplemented.
- (4) "Department" means the State of Idaho Department of Commerce.
- (5) "Director" means the director of the Department or such other official or officials of the Department as the director shall designate to carry out the duties of the director set forth in this Executive Order.
- (6) "Form 8038" means Department of the Treasury tax form 8038 (OMB NO. 1545-0720) or any other similar federal tax form or other method of reporting required by the Department of the Treasury under Section 149(e) of the Code.
- (7) "Initial Allocation" means one of the initial allocations established under Section 4(1) hereof.
- (8) "Issuing Authority" means any of the following, which must have the authority under State law to issue the Bonds:
  - (a) Any county, city or port district;
  - (b) Any public corporation created pursuant to Section 50-2703 of the Idaho Code, or other entity acting on behalf of one or more counties, cities, or both;
  - (c) The Idaho Housing and Finance Association;
  - (d) The State; or
  - (e) Any other entity authorized to issue Bonds in the State.
- (9) "Large Local Government" means any municipality or county in the State that has a population of 100,000 or more and any Indian Tribal government in the State.
- (10) "Large Local Government Initial Allocation" means that amounts set forth in Section 12 hereof for certain Counties and for the City of Boise for Large Local Governments.

- (11) "Notice" means IRS Notice 2009-29, as amended, revised or supplemented.
- (12) "Program" means the program to be financed in whole or in part with the proceeds of the sale of Bonds.
- (13) "Project" means the facility to be financed in whole or in part with the proceeds of sale of Bonds.
- (14) "Qualified Energy Conservation Bonds" means any bond that meets the requirement of Sections 54A and 54D of the Code, as amended.
- (15) "State" means the State of Idaho, any of its agencies, instrumentalities, institutions and divisions authorized to issue Bonds under State law.
- (16) "State Allocation" means the amount of allocation to the State for subsequent allocation by the State as set forth in Section 12 hereof.
- (17) "Subsequent State Allocation" means an allocation of Volume Cap by the Department acting for the State of all or a portion of Initial Allocations returned or deemed returned to the State under this Executive Order consistent with the Code and Notice by a Large Local Government.
- (18) "Ultimate Beneficiary" means the ultimate beneficiary of the Volume Cap as provided in the Code and Notice.
- (19) "Volume Cap" means the volume cap for Qualified Energy Conservations Bonds for the State as computed in Section 54D (e) of the Code, the Notice and related regulations.

## Section 2.

The Volume Cap is allocated in accordance with the procedures set forth in this Executive Order to the State and to Large Local Governments. An Initial Allocation of the Volume Cap, which has been reallocated and returned to the State in accordance with the Code and/or Notice, may be obtained by submitting an application to the Director in accordance with Section 3, as appropriate.

The Director shall evidence a grant of an allocation of the Volume Cap by issuing a certificate of such allocation in accordance with Section 4, as appropriate. The Department may seek and obtain reallocation of Initial Allocations from Large Local Governments that delegate their own allocations under the Code and Notice to the Department to make Subsequent State Allocations hereunder. Such reallocations may include conditions regarding the Subsequent State Allocations.

All allocations by the State and by Large Local Governments must be made such that not less than 70 percent of the allocation to the State or to each Large Local Government will be used for Bonds which are not private activity bonds as provided in the Code and the Notice. Bonds issued to finance capital expenditures to implement "green community programs" shall not be treated as private activity bonds for this purpose.

Section 3.

- (1) In the event an Initial Allocation is waived or returned to the State in accordance with the Code and/or Notice and for any State Allocation, any Issuing Authority or Ultimate Beneficiary shall, prior to the issuance of such Bonds, submit an application to the Director which contains the following information and attachments:
  - a. The name of the Issuing Authority or Ultimate Beneficiary;
  - b. The mailing address of the Issuing Authority or Ultimate Beneficiary;
  - c. The tax identification number of the Issuing Authority or Ultimate Beneficiary;
  - d. The name, title and office telephone number of the official of the Issuing Authority or Ultimate Beneficiary to whom notices should be sent and from whom information can be obtained;
  - e. The principal amount of Bonds proposed to be issued for which an application for an allocation of the Volume Cap is requested;
  - f. The nature, the purpose and the specific location of the Project or the type of Program;
  - g. The initial owner or user of the Project, if other than the Issuing Authority or Ultimate Beneficiary;
  - h. A copy of a valid and fully executed resolution or similar official action of the Issuing Authority evidencing its intention to issue Bonds for the Project;
  - i. With respect to Bonds, the anticipated date on which the Bonds are expected to be sold and the anticipated date on which the closing or final transaction with respect to the issuance and sale of the Bonds is expected to occur;
  - j. The name, address, and telephone number of all parties to the transaction;
  - k. That the Bonds are expected to be issued under the Code and Notice;
  - l. That the Project or Program is located in a Recovery Zone and that the Project will be accomplished in accordance with the Code and Notice;
  - m. Such information as the applicant may wish to submit in order to demonstrate the need for, and economic impact of, its Program or Project in the State, together with any information which demonstrates how its Program or Project will effectively utilize and efficiently distribute resources throughout the State; and
  - n. Any other information or attachments reasonably required by the Director.
- (2) The Director shall:
  - a. Establish the form of application for requests for allocations of the Volume Cap, which form shall contain the information required by Section 3(1); and

- b. Make such forms available to the public upon request.
- (3) The Director shall be under no obligation to process any application that is incomplete. Any application submitted by an Issuing Authority or Ultimate Beneficiary that the Director does not process shall be returned by the Director on or before the fifteenth day after receipt thereof with a brief explanation as to why the application was not processed.

Section 4.

- (1) Allocations of Volume Cap are hereby initially made to the State and Large Local Governments in the amounts as set forth section 12 below, which are the amounts determined by the Internal Revenue Service consistent with the Code and the Notice (collectively, the "Initial Allocations") to be further allocated by said entities as provided in the Code and Notice. Such Initial Allocation shall be permanent unless such Initial Allocation is reallocated or deemed reallocated to the State by the Large Local Government as provided herein and permitted in the Code and Notice:
- a. In accordance with the Code and Notice, the State's national allocation of Volume Cap Allocation Dollars is hereby allocated to Large Local Governments and the State, as Initial Allocations as provided in section 12 hereto;
  - b. The above Initial Allocations shall be in effect until the same are reallocated or deemed reallocated to the State Department of Commerce in accordance with the Code and Notice. Thereafter, Subsequent State Allocations shall be made based first on need, economic impact and efficient distribution of resources as determined by the Department and within that determination, and then in the chronological order in which they are received as provided in Section 3, subject to any conditions which may be set forth in a waiver by the applicable county or municipality of an Initial Allocation; and
  - c. Initial Allocations may be reallocated or deemed reallocated to the State Department of Commerce on or after July 1, 2013 if the Initial Allocation has not been used and is needed for an eligible Project or eligible Program in another area of the State, including a state wide Program. Prior to such reallocation, the State Department of Commerce shall obtain an opinion of counsel that the reallocation is not prohibited under the Code and the Notice, and then shall notify the jurisdiction holding the Initial Allocation and such jurisdiction shall have 30 days to demonstrate that the allocation is needed in the jurisdiction for an eligible Project or Program.



- (2) Except as otherwise provided in this Executive Order, on or before the fifteenth day after receipt by the Director of an application for an allocation of the Volume Cap under Section 3 above, the Director shall, if the application is in satisfactory order, the Director will make the requested allocation in the amount so requested, and certify to the Issuing Authority applying for the allocation that an allocation has been made, the amount of such allocation. Certificates of allocation evidencing the granting of an allocation by the Director in accordance with the preceding sentence, shall be issued by the Director, first based on a determination of need, economic impact and efficient use of resources as determined by the Department, and then in the chronological order in which completed applications are received subject to any conditions which may be set forth in the waiver of Initial Allocation executed by the applicable county or municipality.
- (3) Every allocation of the Volume Cap by application under Section 3 shall remain effective until, and including, the earlier of:
  - a. A date to be determined by the Director but not to exceed 180 days after the date on which such allocation was made; or
  - b. The date upon which the Director receives a written notification from any such Issuing Authority pursuant to Section 6(2). Any allocation for which Bonds are issued on or prior to the applicable date specified in this subsection shall be irrevocably allocated to such Bonds.
- (4) No application submitted by an Issuing Authority or Ultimate Beneficiary to the Director pursuant to this section shall be processed if the amount of allocation of the Volume Cap requested in such application is in excess of the amount of Volume Cap remaining available for allocation. Any application not processed for the reason stated in this subsection may be resubmitted to the Director, with or without a change in the amount of allocation requested. Any application resubmitted to the Director pursuant to this subsection shall be treated as a new application. Should an allocation not be granted for the reasons stated in this subsection, the Director may continue to process other applications in the first based on need, economic impact and efficient use of resources as determined by the Department and then in chronological order in which received, granting allocations pursuant to the provisions of this Executive Order.
- (5) The expiration date of an allocation of Volume Cap under this Executive Order may be extended upon prior written approval of the Director.
- (6) In the event that the Director is uncertain whether an application meets the requirements set forth in this Executive Order or the Code and/or Notice above, he may defer action on such application until he has received another application(s) and then determine which application best meets such criteria.

#### Section 5.

No application submitted to the Director may be amended without the consent of the Director; provided, however, that no such consent shall be required for an Issuing Authority or Ultimate Beneficiary to submit a new application

in order to replace a previously submitted application if such new application is submitted before an allocation is made on the basis of the original application; provided further, that the consent of the Director shall not be required for an Issuing Authority or Ultimate Beneficiary to withdraw a previously submitted application. For purposes of receiving an allocation of the Volume Cap, any application that has been amended shall be treated as though such application was submitted on the date that the amendment was made, rather than on the date of the original submission of such application.

Section 6.

- (1) After the effective date of this Executive Order, any Issuing Authority issuing Bonds under a State Allocation or a Subsequent State Allocation without a certificate or allocation of the Director required to be applied for pursuant to Section 3, or any Issuing Authority issuing Bonds under a State Allocation or to any State Allocation or Subsequent State Allocation after the expiration of an allocation under Section 4, as appropriate, is not entitled to any Subsequent State Allocation of the Volume Cap for such Bonds, and any Issuing Authority issuing Bonds in excess of the State Allocation or a Subsequent State Allocation set forth in the certificate of allocation is not entitled to any State Allocation or a Subsequent State Allocation of the Volume Cap for such excess.
- (2) Each Issuing Authority shall:
  - a. Advise the Director on or before the earlier of the fifteenth day after the issuance of any Bonds or the fifteenth day after December 31 of each calendar year hereafter during which Volume Cap has been allocated, of the principal amount of Bonds issued under the State Allocation or a Subsequent State Allocation set forth in each certificate of allocation issued by the Director evidencing the granting of an allocation for such Bonds by delivering to the Director a copy of the Form 8038 which was delivered to the Internal Revenue Service in connection with such Bonds, or, if no such form was required to be delivered to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the Director with respect to such Bonds; or
  - b. If all or a stated portion of such Bonds will not be issued, shall advise the Director in writing, on or before the earlier of:
    - i. The fifteenth day after the earlier of:
      - (A) The final decision not to issue all or a stated portion of such Bonds; or
      - (B) The expiration of the State Allocation or a Subsequent State Allocation.
- (3) Each Issuing Authority and Ultimate Beneficiary shall cooperate with the Director in furnishing any information the Director reasonably requires. If an Issuing Authority or Ultimate Beneficiary obtains a State Allocation or a Subsequent State Allocation of a portion of the Volume Cap for a particular Project or Program from the Director under Section 3, but does not issue its Bonds within the prescribed time limit, or issues a lesser amount of Bonds within the prescribed time limit, such Issuing Authority or Ultimate Beneficiary may again submit an

application with respect to the proposed Bonds or portion of such Bonds not issued for such Project or Program as provided in Section 3, as appropriate. Such application shall be treated as a new application.

Section 7.

In addition to the duties otherwise specifically set forth in this Executive Order, the Director shall:

- (1) Maintain a record of all applications filed by Issuing Authorities or Ultimate Beneficiaries under Section 3 and all certificates of allocation issued;
- (2) Maintain a record of all Bonds issued by Issuing Authorities;
- (3) Maintain a record of all information filed by Issuing Authorities or Ultimate Beneficiaries under this Executive Order;
- (4) Make available upon reasonable request a certified copy of all or any part of the records maintained by the Department under this Executive Order or a summary thereof including information regarding the Volume Cap allocated and any amounts available or at any time remaining available, for allocation under this Executive Order;
- (5) The Director shall serve as the State official designated under State law to make any allocation including without limitation any State Allocation or Subsequent State Allocations or certifications required to be made under the Code; and
- (6) Promulgate reasonable rules not inconsistent with this Executive Order deemed necessary or expedient to allocate the Volume Cap hereunder.

Section 8.

If any provision of this Executive Order shall be held to be, or shall, in fact, be invalid, inoperative or unconstitutional, the defect of the provision shall not affect any other provision of this Executive Order or render it invalid, inoperative, or unenforceable. To the extent this Executive Order shall be held or shall, in fact, be invalid inoperative, or unconstitutional, all allocations of the Volume Cap previously made under this Executive Order shall be treated as allocations made by the Governor of the State in accordance with this Executive Order.

Section 9.

The State pledges and agrees with the owners of any Bonds to which an allocation of the Volume Cap has been granted under this Executive Order that the State will not retroactively alter the allocation of the Volume Cap to such Bonds.

Section 10.

No action taken pursuant to this Executive Order shall be deemed to create an obligation, debt or liability of the State or be deemed to constitute an approval of any obligation issued or to be issued hereunder.

Section 11.

The purpose of this Executive Order is to maximize the benefits of financing and development through the use of Bonds providing a system for the implementation and administration of the formula provided under the Code for allocating the Volume Cap.

Section 12. Volume Cap Initial Allocation Amounts:

Area	Qualified Energy Conservation Bond (Initial Allocation)
Boise City	\$2,007,742
Ada County	\$1,960,316
Bonneville County	\$1,043,394
Canyon County	\$1,912,889
Kootenai County	\$1,391,192
Coeur d'Alene Reservation	\$69,054
Duck Valley Reservation	11,541
Fort Hall Reservation	55,458
Kootenai Reservation	981
Nez Perce Reservation	179,147
Sub Total	\$8,631,714
State Allocation	\$7,177,286
Total	\$15,809,000



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 19th day of November in the year of our Lord 2012, and of the Independence of the United States of America the two hundred thirty-seventh and of the Statehood of Idaho the one hundred twenty-third.

/s/ C.L. "BUTCH" OTTER

BY THE GOVERNOR:

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA  
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2013-01

CONTINUING THE IDAHO STRATEGIC ENERGY ALLIANCE  
REPEALING AND REPLACING EXECUTIVE ORDER 2009-05

WHEREAS, it is the policy of the State of Idaho to promote the development of the state's nonrenewable and renewable energy sources to increase energy supply in an economically efficient manner while maintaining the integrity of Idaho's natural resources;

WHEREAS, the presence of an affordable, reliable and abundant energy supply is critical for our state and national economy;

WHEREAS, the development of the state's nonrenewable and renewable energy sources would benefit from creating diverse and sustainable forms of energy as well as developing new job opportunities for Idahoans;

WHEREAS, Idaho's energy resources can help Idaho and the nation reduce dependence on international energy sources; and

WHEREAS, to the extent practicable, Idaho's energy needs should be provided through Idaho-based energy sources.

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the authority vested in me under the Constitution and the laws of the State of Idaho, do hereby order the following:

1. The continuation of the Idaho Strategic Energy Alliance as an effort between the State of Idaho and interested stakeholders to facilitate the discussion of a sound energy portfolio for Idaho. The State's energy portfolio should emphasize the importance of an affordable, reliable and secure energy supply. Idaho's energy portfolio should include diverse energy resources and production methods, provide the highest value to the citizens of Idaho, and maintain the integrity of the state's natural resources.
2. The responsibilities of the Alliance shall be to provide information and policy analysis to elected officials, stakeholders, and the public through a Board of Directors. The focus of this analysis and information will be to:
  - A. Increase Idaho's production of affordable, reliable and sustainable energy;
  - B. Increase cost-effective energy efficiency and conservation within Idaho;
  - C. Improve cooperation, collaboration and communication among public and private-sector entities in the areas of energy efficiency, conservation, and affordable and sustainable energy development; and
  - D. Seek new and innovative means to increase energy production in Idaho.
3. Membership of the Board of Directors shall include, but not be limited to, stakeholder representatives and the following representatives of State entities or their designee:
  - A. Administrator of the Office of Energy Resources;
  - B. President of the Public Utilities Commission;
  - C. Director of the Department of Lands;
  - D. Director of the Department of Commerce;
  - E. Administrator of the Division of Building Safety; and
  - F. Director of the Department of Water Resources
4. Members of the Board of Directors, including the Chairman and Vice Chairman, shall be designated by and serve at the pleasure of the Office of the Governor. Terms for Board members will be two years. The Board shall be governed by an Executive Committee consisting of the Chairman, Vice Chairman, and the Administrator of the Office of Energy Resources.

5. When necessary, the Board of Directors may engage representatives of the federal government, local government organizations, Idaho universities, private entities and not-for-profit organizations who can bring the expertise and resources necessary to contribute to the success of the Alliance.
6. The Board of Directors shall report on its activities to the Governor annually.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 8th day of January in the year of our Lord 2013, and of the Independence of the United States of America the two hundred thirty-seventh and of the Statehood of Idaho the one hundred twenty-third.

/s/ C.L. "BUTCH" OTTER

BY THE GOVERNOR:

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA  
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2013-02

ESTABLISHING THE GOVERNOR'S LEADERSHIP IN NUCLEAR ENERGY (LINE)  
COMMISSION 2.0

WHEREAS, Executive Order 2012-01 established the Governor's Leadership in Nuclear Energy Commission (LINE I) to make recommendations to the Governor on policies and actions of the State of Idaho to support and enhance the long-term viability and mission relevance of the Idaho National Laboratory (INL); and

WHEREAS, LINE I recently completed its nearly year-long intensive look at the benefits and burdens of Idaho's hosting of the INL and the broader nuclear industries sector, and concluded the State should take immediate and long-term steps to enhance the future of the INL as the nation's lead nuclear research and development laboratory; and

WHEREAS, LINE I brought to light a number of other findings, made six recommendations and urged more than a dozen immediate actions, which require ongoing management and oversight; and

WHEREAS, one of those findings stressed that safety and environmental protection are non-negotiable and, to this end, encouraged the State of Idaho's cooperation with the U.S. Department of Energy (DOE) to ensure the continuation of the highly successful cleanup program at the Idaho site that has delivered on 99 percent of enforceable milestones to date; and

WHEREAS, LINE I emphasized the federal government's decision to discontinue development of the Yucca Mountain repository demands the State's attention as that decision may significantly impair DOE's ability to meet certain future cleanup milestones pursuant to the 1995 Settlement Agreement; and

WHEREAS, through the efforts of LINE I, it was made clear that a number of states are aggressively pursuing a wide range of nuclear energy research and nuclear materials management activities either currently conducted at the INL or that could potentially be sited in Idaho in the future. The loss of these high value, national priority nuclear research missions to other

states would not only seriously endanger the future of the INL but, by extension, Idaho's economic interests; and

WHEREAS, based on these findings, LINE I recommended the State of Idaho exercise leadership by forming a standing nuclear advisory council to: (1) ensure the continued vitality of the INL and Idaho's growing nuclear industries sector; and (2) advance the position that in the interests of fiscal responsibility in these trying financial times the public is best served by maximizing use of existing assets, rather than the costly replication of such assets elsewhere; and

WHEREAS, in recognition of the outstanding efforts of LINE I, and not wanting to lose valuable institutional knowledge, the standing nuclear council recommendation would be best accomplished through an extension of LINE I--namely, the establishment of the Governor's Leadership in Nuclear Energy Commission 2.0 (LINE II).

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the authority vested in me under the Constitution and the laws of the State of Idaho do hereby create the Leadership in Nuclear Energy Commission 2.0 (LINE II).

1. LINE II is to:

- a. Monitor and provide counsel on implementation of the recommendations and actions submitted by LINE I to ensure the unique research capabilities of the INL continue to play an important role in Idaho's economic growth and the nation's energy security;
- b. Track and assess the activities of the U.S. Congress, DOE and other states with significant nuclear energy research and operations interests to advance and preserve Idaho's and the INL's interests;
- c. Identify and recommend appropriate pre-emptive/preparatory actions relative to looming federal budget and policy decisions that could have negative implications for long-term INL operations, including advising on the propriety of partnering with other states for mutual benefit;
- d. Identify additional opportunities and investments that can be made in the Center for Advanced Energy Studies, Idaho's universities and general research, transportation and communications infrastructure in furtherance of the mission of the INL;
- e. Provide a means or mechanism to enable a continued robust and open dialogue with the public on the INL, Idaho's broader nuclear industries sector and Commission activities; and
- f. Evaluate policy options for strengthening the broader nuclear industries sector in Idaho.

2. The duties of LINE II are solely advisory in nature.

3. The members of LINE II shall be appointed by and serve at the pleasure of the Governor. Members will include, but are not limited to:

- a. A representative from State government;
- b. A representative from the universities of the State;
- c. A representative from the Idaho House of Representatives;
- d. A representative from the Idaho Senate;

- e. A mayor or county commissioner;
  - f. A representative of the current R&D contractor at the INL;
  - g. A representative from a private-sector nuclear industries company; and
  - h. A member of the public.
4. The Governor will appoint the chair or co-chairs of LINE II.
  5. The Office of the Governor will staff LINE II.
  6. LINE II may request consultation, information and technical expertise from directors or their designees of State of Idaho agencies regarding environmental requirements, State natural resources, transportation, emergency response and law enforcement issues.
  7. LINE II may request comments, information and technical expertise from the American Indian tribes of Idaho, federal agencies, representatives from the nuclear industries sector, and members of the public.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 6th day of March in the year of our Lord 2013, and of the Independence of the United States of America the two hundred thirty-seventh and of the Statehood of Idaho the one hundred twenty-third.

BY THE GOVERNOR:

/s/ C.L. "BUTCH" OTTER  
GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA  
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2013-03

CONTINUATION OF A STATE HOUSING TAX CREDIT AGENCY

WHEREAS, the United States Congress has enacted and amended the Internal Revenue Code of 1986 (the "Code"); and

WHEREAS, Section 42 of the Code authorizes a Low-Income Housing Credit; and

WHEREAS, Section 42(h) of the Code stipulates that the Housing Credit is subject to certain restrictions regarding the aggregate credit allowable with respect to projects located in a state; and

WHEREAS, the Idaho Housing and Finance Association was created by the adoption of Title 67, Chapter 62 of the Idaho Code to increase the supply of housing for persons and families of low income and to encourage cooperation and coordination among private enterprise and state and local government to sponsor, build and rehabilitate residential housing for such persons and families; and

WHEREAS, in order to establish and continue an equitable process for the allocation of the allowable Low-Income Housing Credit for the State of Idaho, it is necessary and desirable to issue this Executive Order to provide authorization required under Section 42(h) for a State Housing Credit agency as defined in the Code;



NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the power vested in me do hereby order as follows:

Section 1: As used in this Executive Order:

(a) "Annual Report" means the report required from any agency which allocates any housing credit amount to any building for any calendar year, as specified in Section 42(1)(3) of the Code.

(b) "Code" means the Internal Revenue Code of 1986, as amended, and any related regulations.

(c) "Executive Director" means the Executive Director of the Idaho Housing and Finance Association or such other official or officials of the Idaho Housing and Finance Association as the Executive Director shall designate to carry out the duties set forth in this Executive Order.

(d) "Housing Credit Ceiling" means the dollar amount of State Housing Credit Ceiling applicable to any state for any calendar year in an amount based upon the applicable per capita limit and the State's population as determined in accordance with Section 42(h)(3) of the Code.

(e) "Idaho Housing and Finance Association" or "Association" means the Idaho Housing and Finance Association, an independent public body, corporate and politic, created by the Idaho Legislature under the provisions of Chapter 62, Title 67 of the Idaho Code, as amended.

(f) "Low-Income Housing Credit" means the federal tax credit authorized under Section 42 of the Code.

(g) "Qualified Low-Income Housing Project" means any project for residential rental property which meets the requirements of Section 42(g) of the Code; in general Section 42(g) of the Code pertains to the requirement that 20 percent of the units in the project be both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income, or that 40 percent of the units in the project be both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.

(h) "State" means the State of Idaho.

(i) "State Housing Credit Agency" means the agency authorized to carry out the provisions of Section 42(h), Section 42(1) and Section 42(m) of the Code and in particular the Idaho Housing and Finance Association.

(j) "Year" means the period January 1 through December 31, inclusive, for each calendar year beginning prior to or after January 1, 2013.

Section 2: The Code has created a Low-Income House Credit which can be granted by a State Housing Credit Agency for a Qualified Low-Income Housing Project.

The Code has further created a Housing Credit Ceiling which the state may use in any year to assist Qualified Low-Income Housing Projects during the allocation term.

Section 3: The state has delegated certain responsibilities and granted certain powers to the Idaho Housing and Finance Association in order that the supply of housing for persons and families of low income be increased and that coordination and cooperation among private enterprise, state and local government be encouraged to sponsor, build and rehabilitate residential housing for such persons and families.

Section 4: The state requires the development of a Qualified Allocation Plan described in Section 7(a) below for the allocation of the Low-Income Housing Credit in order to ensure fair and equal opportunity by interested parties in gaining an allocation of the Housing Credit Ceiling.

Section 5: The state requires the implementation of said Qualified Allocation Plan in order to ensure the proper use of such credits for Qualified Low-Income Housing Projects.

Section 6: An Annual Report shall be submitted to the Secretary of the Treasury and to the Governor of the State of Idaho with respect to the use of the Low-Income Housing Credit for any year.

Section 7: In consideration of the requirements of the state, the Governor appoints the Idaho Housing and Finance Association to act as the State Housing Credit Agency for the state in the distribution of the Housing Credit Ceiling for any year.

The Idaho Housing and Finance Association is required to:

(a) Establish a Qualified Allocation Plan as defined and provided for in Section 42 (m) of the Code for the fair distribution of the Housing Credit Ceiling for the state;

(b) Distribute the Housing Credit Ceiling for Qualified Low-Income Housing Projects in the manner required under Section 42 of the Code.

(c) Submit an Annual Report to the Secretary of the Treasury and the Governor of the State of Idaho (at such time and in such manner as the Secretary shall prescribe) specifying:

(1) the amount of housing credit allocated to each building for such year,

(2) sufficient information to identify each such building and the taxpayer with respect thereto, and

(3) such other information as the Code, the Secretary, the Governor or the Legislature of the State of Idaho may require.

Section 8: The state pledges and agrees with the owners of any Qualified Low-Income Housing Project for which an allocation of the Housing Credit Ceiling has been granted under this Executive Order that the state will not retroactively alter the allocation of the Housing Credit Ceiling to such project except as may be required under the terms of the Code.

Section 9: No action taken pursuant to this Executive Order shall be deemed to create an obligation, debt, or liability of the state.

Section 10: The purpose of this Executive Order is to maximize the opportunity for developing low-income housing units through the use of the Low-Income Housing Credit by providing a responsible State Housing Credit Agency within the meaning and requirements of Section 42 of the Code.

Section 11: This Executive Order shall be effective immediately and continue the designation of the Idaho Housing and Finance Association as the State Housing Tax Credit Agency and shall be applied to all allocations made with respect to any Qualified Low-Income Housing Project. This Executive Order shall continue in effect until such time as it may be repealed or superseded by operation of the state or federal law.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 22nd day of March in the year of our Lord 2013, and of the Independence of the United States of America the two hundred thirty-seventh and of the Statehood of Idaho the one hundred twenty-third.

/s/ C.L. "BUTCH" OTTER

BY THE GOVERNOR:

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA  
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2013-04

CONTINUING A SYSTEM FOR ALLOCATING VOLUME CAP IN THE STATE CONSISTENT WITH PROVISIONS OF TITLE 50, CHAPTER 28, IDAHO CODE, AND THE U.S. INTERNAL REVENUE CODE OF 1986

WHEREAS, Section 146 of the U.S. Internal Revenue Code of 1986 (the "Code") subjects certain private activity and non-private activity bonds to volume limitations or "volume cap" (the "Volume Cap"); and

WHEREAS, as required by Section 146(e) of the Code, the Idaho Legislature did adopt the provisions of Title 50, Chapter 28, Idaho Code, (the "State Law") to provide a permanent allocation formula for Volume Cap in the state; and

WHEREAS, Section 50-2804 Idaho Code, authorizes and directs the Governor of the State of Idaho to provide for the implementation and administration of the allocation formula established under Section 50-2803, Idaho Code, by executive order and the Governor did issue his Executive Order No. 2009-02 providing therefore; and

WHEREAS, in order to renew the provisions contained in said Executive Order No. 2009-02, to amend the allocation formula in order to meet the requirements of said amendments to the State Law and to continue to provide for the implementation and administration of the formula for allocation of the Volume Cap among the state and its issuing authorities under the State Law, it is necessary and desirable to issue this Executive Order;

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the power vested in me do hereby order as follows:

Section 1: As used in this Executive Order:

(1) "Allocation Dollars" means the dollar amount of the Volume Cap expressed in terms of dollars. Each allotment dollar equals one dollar of Volume Cap that may be allocated under this Executive Order and the State law.

(2) "Bonds" means any obligations for which an allocation of the Volume Cap is required by the Code and the State Law including, without limitation, mortgage credit certificates described in Section 25 of the Code. With respect to any allocation of Allotment Dollars for the purpose of issuing certificates, certificates will be deemed "issued" when the mortgage credit certificate program for which the allocation is made is implemented.

(3) "Code" means the Internal Revenue Code of 1954, as amended by the Reform Act of 1986 and renamed the Internal Code of 1986, and any related regulations.

(4) "Department" means the Department of Commerce of the State.

(5) "Director" means the director of the Department or such other official or officials of the Department as the director shall designate to carry out the duties of the director set forth in this Executive Order.

(6) "Form 8038" means Department of the Treasury tax form 8038 (OMB NO. 1545-0720) or any other federal tax form or other method of reporting required by the Department of the Treasury under Section 149(e) of the Code.

(7) "Issuing Authority" means

(a) any county, city or port district;

(b) any public corporation created pursuant to Section 50-2703 of the Idaho Code, or other entity acting on behalf of one or more counties, cities, or both;

(c) the State; or

(d) any other entity authorized to issue Bonds in the State.

(8) "Priority Set Aside" means one of the priority set asides established under Section 4(1) hereof.

(9) "Program" means the program to be financed in whole or in part with the proceeds of the sale of Bonds or to be implemented through the issuance of mortgage credit certificates under Section 25 of the Code.

(10) "Project" means the facility to be financed in whole or in part with the proceeds of sale of Bonds.

(11) "Qualifying Carryforward Project or Program" means a Project or Program qualifying for carryforward under Section 146(f) of the Code.

(12) "State" means the state of Idaho, any of its agencies, instrumentalities, institutions and divisions authorized to issue Bonds under State law.

(13) "State Law" means Title 50, Chapter 28, Idaho Code, as amended.

(14) "Volume Cap" means the volume cap for the State as computed under Section 146 of the Code.

(15) "Year" means each calendar year beginning January 1.

Section 2: The Volume Cap for each Year is allocated to Issuing Authorities in accordance with the procedures set forth in this Executive Order. An allocation of the Volume Cap may be obtained by submitting an application to the Director in accordance with Section 3 or Section 5, as appropriate. The Director shall evidence a grant of an allocation of the Volume Cap by issuing a certificate of allocation in accordance with Section 4 or Section 5, as appropriate.

Section 3:

(1) Any Issuing Authority proposing to issue Bonds shall, prior to the issuance of such Bonds, submit an application to the Director which contains the following information and attachments:

(a) the name of the Issuing Authority;

(b) the mailing address of the Issuing Authority;

(c) the tax identification number of the Issuing Authority;

(d) the name, title and office telephone number of the official of the Issuing Authority to whom notices should be sent and from whom information can be obtained;

(e) the principal amount of Bonds proposed to be issued for which an application for an allocation of the Volume Cap is requested;

(f) the nature, the purpose and the specific location of the Project or the type of Program;

(g) the initial owner or user of the Project or Program, if other than the Issuing Authority;

(h) a copy of a valid and fully executed resolution or similar official action of the Issuing Authority evidencing its intention to issue Bonds for the Project or Program;

(i) with respect to Bonds, the anticipated date on which the Bonds are expected to be sold and the anticipated date on which the closing or final transaction with respect to the issuance and sale of the Bonds is

expected to occur and, with respect to mortgage credit certificates under Section 25 of the Code, the anticipated date on which such mortgage credit certificates are expected to be issued;

(j) the name, address, and telephone number of all parties to the transaction;

(k) the applicable provisions of the Code under which the Bonds are expected to be issued; and

(l) such information as the applicant may wish to submit in order to demonstrate the need for, and economic impact of, its Program or Project in the State, together with any information which demonstrates how its Program or Project will effectively utilize and efficiently distribute resources throughout the State;

(m) any other information or attachments reasonably required by the Director.

(2) The Director shall

(a) establish the form of application for requests for allocations of the Volume Cap, which form shall contain the information required by Section 3(1), and

(b) make such forms available to the public upon request.

(3) The Director shall be under no obligation to process any application that is incomplete. Any application submitted by an Issuing Authority that the Director does not process shall be returned by the Director on or before the fifteenth day after receipt thereof with a brief explanation as to why the application was not processed.

#### Section 4:

(1) Allocations of Volume Cap shall be made each Year according to the following Priority Set Asides:

(a) qualified small issue manufacturing projects under Section 144(a) of the Code, in an amount between 7% and 13% of the total Allocation Dollars available for the Year as determined by the Director;

(b) single family housing financing through the Idaho Housing and Finance Association under Section 143 of the Code, in an amount between 55% and 80% of the total Allocation Dollars available for the Year as determined by the Director;

(c) multifamily housing, as qualified residential rental projects under Section 142(a)(7) of the Code, in an amount between 0% and 8% of the total Allocation Dollars available for the Year as determined by the Director;

(d) student loan programs through the Education Funding Association of Idaho under Section 144(b) of the Code, in an amount between 0% and 15% of the total Allocation Dollars available for the Year as determined by the Director;

(e) beginning farmer financings, arranged by the Idaho Department of Agriculture under Section 144(a) of the Code, in an amount between 0% and 2% of the total Allocation Dollars available for the Year as determined by the Director;

(f) exempt facilities under Section 142(a) of the Code, other than qualified residential rental projects, in an amount between 0% and 32% of the total Allocation Dollars available for the Year as determined by the Director.

(g) any qualified uses for Volume Cap not identified above are eligible for allocations in accordance with Section 4(4) below.

(h) not later than January 31st of each year, subject to the provisions of Section 4(9) hereof, the Director shall determine the amount of Allocation Dollars within each Priority Set Aside, based on the need for, and economic impact of, the Program or Project to be financed under each application and how such expected Program or Project will effectively utilize and efficiently distribute resources throughout the State.

- (i) the above Priority Set Asides shall be in effect through August 31 of each Year. Thereafter, allocations shall be made in accordance with Section 4(4) and (5) below. All other potential uses of Volume Cap under the Code, other than those listed in the Priority Set Asides above, may also be allocated on or after September 1 of each Year upon application to the Director as provided in Section 4(4) and (5) below.
- (2) Except as otherwise provided in this Executive Order, on or before the fifteenth day after receipt by the Director of an application for an allocation of the Volume Cap, the Director shall, if the application is in satisfactory order, and if the Director determines that the application demonstrates the need for, and economic impact of, the particular Program or Project in the State and how the Program or Project will effectively utilize and efficiently distribute resources throughout the State, the Director will make the requested allocation in the amount so requested, if available under the applicable Priority Set Aside in Section 4(1) above, and certify to the Issuing Authority applying for the allocation that an allocation has been made, the amount of such allocation. Certificates of allocation evidencing the granting of an allocation by the Director in accordance with the preceding sentence, shall be issued by the Director in the chronological order in which completed applications are received within the applicable Priority Set Aside in Section 4(1) above. No Issuing Authority issuing Bonds or Certificates is entitled to any allocation of the Volume Cap with respect to such Bonds or Certificates unless it has first received the aforementioned certificate of allocation from the Director evidencing the granting of an allocation for such Bonds or Certificates.
- (3) Every allocation of the Volume Cap granted under this Executive Order by the Director for which Bonds or Certificates have not been issued with respect to such allocation, except those grants made pursuant to Section 5, shall remain effective until, and including, the earlier of
- (a) a date to be determined by the Director but not to exceed 180 days after the date on which such allocation was made or any date until December 27 as determined by the Director if the Program is being allocated Volume Cap under a Priority Set Aside which sets aside Allocation Dollars for a specific Issuing Authority [Sections 4(1)(b), 4(1)(d) and 4(1)(e) above] and such Issuing Authority has a Program for Bond issuance to be carried out throughout the Year,
  - (b) 12:00 o'clock midnight on December 27 of the Year in which such allocation was made, or
  - (c) the date upon which the Director receives a written notification from any such Issuing Authority pursuant to Section 7(2). Any allocation for which Bonds or Certificates are issued on or prior to the applicable date specified in this subsection shall be irrevocably allocated to such Bonds or Certificates.
- (4) On and after September 1 of each Year allocations of Volume Cap shall be made to applicants submitting applications by such date for Project(s) or Program(s) that best demonstrate effective utilization, need, economic impact and efficient distribution of resources throughout the State. The Director and the Department may elect not to allocate Volume Cap if an application does not demonstrate a need for, and economic impact of, the particular Program or Project in the State and how the Program or Project will effectively utilize and efficiently distribute resources throughout the State. If qualified applications have not been received by the Department for all remaining Allocation Dollars by September 1 of such Year, then the Department shall continue to receive additional applications until the first of each succeeding month and make allocations on the same basis until all Allocation Dollars have been allocated.
- (5) Until and including December 27 of each Year, any allocation of Allocation Dollars made in such Year, except allocations made pursuant to Section 5, for which Bonds or Certificates are not issued on or prior to the appli-

cable date specified in Section 4(3) shall be available for reallocation to applying Issuing Authorities. On December 28 of each Year, any allocation of Allocation Dollars made in such Year for which Bonds or Certificates are not issued on or prior to the applicable date specified in Section 4(3) and any Allocation Dollars for such Year or any Allocation Dollars not allocated under Section 4(4) above shall become available for reallocation only for Qualifying Carryforward Projects or Programs. In either case, such reallocations shall be made in the same manner as for allocations of Allocation Dollars on and after September 1 as provided in Section 4(4) above.

(6) No application submitted by an Issuing Authority to the Director pursuant to this section shall be processed if the amount of allocation of the Volume Cap requested in such application is in excess of the amount of Volume Cap remaining available for allocation. Any application not processed for the reason stated in this subsection may be resubmitted to the Director, with or without a change in the amount of allocation requested. Any application resubmitted to the Director pursuant to this subsection shall be treated as a new application. Should an allocation not be granted for the reasons stated in this subsection, the Director shall continue to process other applications in the chronological order in which received, granting allocations pursuant to the provisions of this Executive Order.

(7) The expiration date of an allocation of Volume Cap under this Executive Order may be extended upon prior written approval of the Director, provided there are no pending applications for Volume Cap within the same Priority Set Aside, or if there are other such applications pending, that the application for the allocation being extended best demonstrates the need for, and economic impact of, the Program or Project in the State and how the Program or Project will effectively utilize and efficiently distribute resources throughout the State, and provided further that all other provisions of this Executive Order are complied with.

(8) In the event that the Director is uncertain whether an application meets the requirements set forth in 4(2) or 4(4) above, he may defer action on such application until he has received another application(s) and then determine which application best meets such criteria.

(9) In the case of an application filed prior to the date when the Director makes an allocation under 4(1)(h) above for an allocation from a Priority Set Aside which provides for a minimum percent of Allocation Dollars and sets forth a specific Issuing Authority to receive the Priority Set Aside [specifically, Priority Set Asides 4(1)(b), 4(1)(d) and 4(1)(e)], the Director may, and, at the request of the Issuing Authority, shall, make an allocation of that Year's Allocation Dollars in an amount not to exceed the minimum percentage stated for the Priority Set Aside prior to the date the Director has set for determination of allocations under 4(1)(h) but in no event later than 15 days after the date such application is filed.

#### Section 5:

(1) Issuing Authorities with Qualifying Carryforward Projects or Programs may apply for an allocation of Allotment Dollars for such Qualifying Carryforward Projects or Programs by submitting an application to the Director which shall contain:

- (a) the carryforward purpose for the Bonds under Section 146(f) of the Code;
- (b) any other information required by Section 146(f) of the Code;
- (c) a certification signed by both an official of the Issuing Authority responsible for the supervision of the issuance of the Bonds and, if applicable, a representative of the person or entity constructing, acquiring, or rehabilitating the Project or administering the Program, stating that the Issuing Authority and, if applicable, such person or entity, will proceed with diligence to ensure the issuance of the Bonds within the carryforward period provided by Section 146(f) of the Code;

(d) a preliminary opinion from bond counsel that the Project or Program qualifies for carryforward under Section 146(f) of the Code, if applicable;

(e) if applying for an allocation of Allotment Dollars for the purpose of issuing mortgage credit certificates under Section 25 of the Code, the amount of qualified mortgage bonds defined in Section 143 of the Code which the Issuing Authority elects not to issue under the Code; and

(f) such other information and attachments as are set forth in Section 3(1).

(2) No application submitted by an Issuing Authority to the Director pursuant to this section shall be processed if at the time such application is considered the amount of allocation of the Volume Cap requested in such application is in excess of the amount of the Volume Cap remaining available for allocation. Any application not processed for the reason stated in this subsection may be resubmitted to the Director, with or without a change in the amount of allocation requested. Any application resubmitted to the Director pursuant to this subsection shall be treated as a new application. Should an allocation not be granted for the reasons stated in this subsection, the Director shall continue to process other applications in accordance with the provisions of Section 4(4), granting allocations pursuant to the provisions of this Executive Order.

(3) Allocations of the Volume Cap for Qualifying Carryforward Projects or Programs shall be granted by the Director in the amount requested by the applying Issuing Authority, if available, on or after December 1, but no later than December 31, of the Year in which an application in satisfactory order is submitted to the Director for an allocation of the Volume Cap for a Qualifying Carryforward Project or Program in accordance with the provisions of Section 4(5). The Director shall issue certificates of allocation evidencing the granting of an allocation within the time period specified in the preceding sentence to each Issuing Authority which applied to the Director and which received an allocation of the Volume Cap for a Qualifying Carryforward Project or Program of such Issuing Authority, such certificates of allocation to be similar to the certificates of allocation described in Section 4, stating the amount of Allotment Dollars which have been allocated to such Issuing Authority, specifying the Qualifying Carryforward Project or Program for which the allocation has been made and specifying the expiration date of the allocation, as provided by Section 146(f) of the Code.

Section 6: No application submitted to the Director may be amended without the consent of the Director; provided, however, that no such consent shall be required for an Issuing Authority to submit a new application in order to replace a previously submitted application if such new application is submitted before an allocation is made on the basis of the original application; provided further, that the consent of the Director shall not be required for an Issuing Authority to withdraw a previously submitted application. For purposes of receiving an allocation of the Volume Cap, any application that has been amended shall be treated as though such application was submitted on the date that the amendment was made, rather than on the date of the original submission of such application.

Section 7:

(1) After the effective date of this Executive Order, any Issuing Authority issuing Bonds without a certificate or allocation of the Director issued pursuant to Section 4 or Section 5, as appropriate, evidencing the granting of an allocation for such Bonds or Certificates, or any Issuing Authority issuing Bonds or Certificates after the expiration of an allocation under Section 4 or Section 5, as appropriate, is not entitled to any allocation of the Volume Cap for such Bonds or Certificates, and any Issuing Authority issuing Bonds or Certificates in excess of the allocation set forth in the certifi-



cate of allocation is not entitled to any allocation of the Volume Cap for such excess.

(2) Each Issuing Authority shall

(a) advise the Director on or before the earlier of the sixtieth day after the issuance of any Bonds or Certificates or December 27 of each Year, of the principal amount of Bonds or Certificates issued under the allocation set forth in each certificate of allocation issued by the Director evidencing the granting of an allocation for such Bonds or Certificates by delivering to the Director a copy of the Form 8038 which was delivered to the Internal Revenue Service in connection with such Bonds or Certificates, or, if no such form was required to be delivered to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the Director with respect to such Bonds or Certificates, or

(b) if all or a stated portion of such Bonds or Certificates will not be issued, shall advise the Director in writing, on or before the earlier of

(i) the fifteenth day after the earlier of

(A) the final decision not to issue all or a stated portion of such Bonds or Certificates or

(B) the expiration of the allocation, or

(ii) December 27 of the Year in which the allocation for such Bonds or Certificates was made.

(3) Each Issuing Authority shall cooperate with the Director in furnishing any information the Director reasonably requires. If an Issuing Authority obtains an allocation of a portion of the Volume Cap for a particular Project or Program from the Director as provided in Section 4 or Section 5, as appropriate, but does not issue its Bonds or Certificates within the prescribed time limit, or issues a lesser amount of Bonds or Certificates within the prescribed time limit, such Issuing Authority may again submit an application with respect to the proposed Bonds or Certificates or portion of such Bonds or Certificates not issued for such Project or Program as provided in Section 4 or Section 5, as appropriate. Such application shall be treated as a new application.

Section 8: In addition to the duties otherwise specifically set forth in this Executive Order, the Director shall:

(1) determine the amount of Allotment Dollars available on December 28 of each Year for allocation for Qualifying Carryforward Projects or Programs and allocate the Allotment Dollars available for Qualifying Carryforward Projects or Programs as provided in this Executive Order;

(2) maintain a record of all applications filed by Issuing Authorities under Section 3 and Section 5 and all certificates of allocation issued under Section 4 and Section 5;

(3) maintain a record of all Bonds or Certificates issued by Issuing Authorities during each Year;

(4) maintain a record of all information filed by Issuing Authorities under this Executive Order;

(5) make available upon reasonable request a certified copy of all or any part of the records maintained by the Department under this Executive Order or a summary thereof including information regarding the Volume Cap for each Year and any amounts available or at any time remaining available, for allocation under this Executive Order;

(6) the Director shall serve as the State official designated under State law to make any certifications required to be made under the Code including, without limitation, the certification required by Section 149(e)(2)(F) of the Code; and

(7) promulgate reasonable rules not inconsistent with this Executive Order deemed necessary or expedient to allocate the Volume Cap hereunder.

Section 9: If any provision of this Executive Order shall be held to be, or shall, in fact, be invalid, inoperative or unconstitutional, the defect of the provision shall not affect any other provision of this Executive Order or render it invalid, inoperative, or unenforceable. To the extent this Executive Order shall be held or shall, in fact, be invalid inoperative, or unconstitutional, all allocations of the Volume Cap previously made under this Executive Order shall be treated as allocations made by the Governor of the State in accordance with provisions of the State Law.

Section 10: This Executive Order replaces Executive Order No. 2009-02 which is hereby repealed, provided that such replacement shall not affect any allocations in the State made prior to the effective date hereof pursuant to any other Executive Orders or laws of the State.

Section 11: The State pledges and agrees with the owners of any Bonds or Certificates to which an allocation of the Volume Cap has been granted under this Executive Order that the State will not retroactively alter the allocation of the Volume Cap to such Bonds or Certificates.

Section 12: No action taken pursuant to this Executive Order shall be deemed to create an obligation, debt or liability of the State or be deemed to constitute an approval of any obligation issued or to be issued hereunder.

Section 13: The purpose of this Executive Order is to maximize the benefits of financing and development through the use of Bonds and Certificates providing a system for the implementation and administration of the formula specified in the State Law for allocating the Volume Cap within the meaning of Section 146 of the Code.

Section 14: This Executive Order shall be effective immediately and shall continue in effect until such time as it may be repealed or superseded by operation of State or Federal law. Notwithstanding the foregoing, allocations for Qualifying Carry forward Projects or Programs pursuant to Section 5 hereof shall remain effective for the term of such allocation provided for in Section 146(f) of the Code.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 22nd day of March in the year of our Lord 2013, and of the Independence of the United States of America the two hundred thirty-seventh and of the Statehood of Idaho the one hundred twenty-third.

/s/ C.L. "BUTCH" OTTER  
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA  
SECRETARY OF STATE





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Approp = Appropriation	Assn = Association
Bd = Board	Com = Commission
Comm = Committee	Dept = Department
DEQ = Department of Environmental Quality	
Dist = District	Div = Division
F&G = Fish and Game	Govt = Government
H&W = Health and Welfare	PUC = Public Utilities Commission
PERSI = Public Employee Retirement System of Idaho	
UCC = Uniform Commercial Code	Univ = University

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33-1009	Amended .....	Ch.343 -	908
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33-1020	Amended .....	Ch.154 -	364
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33-1022	New Section Added .....	Ch.340 -	897
33-1024	New Section Added .....	Ch.154 -	365
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34-1807	Amended .....	Ch.336 -	874
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36-404	Amended .....	Ch. 70 -	169
36-406	Amended .....	Ch. 70 -	170



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36-407	Amended .....	Ch. 70 -	171
36-407	Amended .....	Ch. 71 -	180
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36-416	Amended .....	Ch. 70 -	173
36-416	Referred to .....	Ch. 71 -	180
36-1603	Amended .....	Ch.150 -	348
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37-2705	Amended .....	Ch.253 -	623
37-2730A	Amended .....	Ch. 6 -	14
37-3201	Amended .....	Ch. 28 -	52
37-3201	Amended .....	Ch.270 -	705
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38-107	Amended .....	Ch. 62 -	138
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39-174	Amended .....	Ch. 16 -	27
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39-604	Amended .....	Ch.209 -	498
39-1394	Amended .....	Ch.114 -	275
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39-1904	Repealed .....	Ch.104 -	247
39-1905	Repealed .....	Ch.104 -	247
39-3413	Amended .....	Ch.247 -	597
39-3602	Amended .....	Ch.348 -	941
39-3604	Amended .....	Ch.348 -	945
39-3605	Amended .....	Ch.348 -	945
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41-731	Amended .....	Ch.266 -	680
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41-3805	New Section Added .....	Ch.266 -	657
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41-3806	Repealed .....	Ch.266 -	652
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41-3807	Repealed .....	Ch.266 -	652
41-3808	New Section Added .....	Ch.266 -	659
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41-3811	New Section Added .....	Ch.266 -	668
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41-3815	New Section Added .....	Ch.266 -	670
41-3815	Repealed .....	Ch.266 -	652
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41-3817	New Section Added .....	Ch.266 -	673
41-3817	Repealed .....	Ch.266 -	652
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43-201	Amended .....	Ch.133 -	304
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43-208	Amended .....	Ch.133 -	305
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49-434	Amended .....	Ch.153 -	356
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49-448	Referred to .....	Ch.310 -	817
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49-524	Amended .....	Ch. 89 -	219
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49-1004	Referred to .....	Ch.206 -	494
49-1004A	Amended .....	Ch.351 -	952
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49-1234	Amended .....	Ch.291 -	767
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49-1505	Amended .....	Ch.147 -	343
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49-2447	New Section Added	Ch.354	-	962
49-2905	Amended	Ch. 78	-	192
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50-1044	Amended	Ch.135	-	316
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54-805	Referred to	Ch.179	-	416
54-924	Amended	Ch.281	-	730
54-1202	Amended	Ch.339	-	886
54-1218	Amended	Ch.289	-	762
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54-1228	Amended	Ch.339	-	889
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54-1701	Amended	Ch. 28	-	52
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54-1704	Amended	Ch. 28	-	52
54-1705	Amended	Ch. 28	-	53
54-1705	Amended	Ch.270	-	698
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54-1720	Amended	Ch. 28	-	57
54-1721	Amended	Ch. 28	-	59
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54-1726	Amended	Ch. 28	-	61
54-1726	Referred to	Ch. 28	-	64
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54-1747	Repealed	Ch. 28	-	67
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54-1806	Amended	Ch. 115	-	276
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54-1908	Amended	Ch. 187	-	456
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54-2103	Amended	Ch. 290	-	762
54-2305	Amended	Ch. 13	-	23
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54-2701	Amended	Ch. 286	-	738
54-2702	Amended	Ch. 286	-	739
54-2707	Amended	Ch. 286	-	740
54-3204	Amended	Ch. 15	-	25
54-3211	Amended	Ch. 15	-	25
54-3503	Amended	Ch. 187	-	456
54-3504	Amended	Ch. 187	-	456
54-3508	Amended	Ch. 187	-	457
54-3705	Amended	Ch. 14	-	24
54-4105	Amended	Ch. 137	-	321
54-4702	Amended	Ch. 28	-	67
54-4702	Amended	Ch. 270	-	706
54-5015	Amended	Ch. 101	-	242
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63-308	Amended .....	Ch.191 -	472
63-317	Amended .....	Ch. 21 -	35
63-509	Amended .....	Ch. 21 -	36
63-511	Amended .....	Ch. 24 -	45
63-602A	Amended .....	Ch.134 -	306
63-602G	Amended .....	Ch. 21 -	37
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63-803	Amended .....	Ch.243 -	584
63-803	Amended .....	Ch.243 -	585
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63-3022R	New Section Added .....	Ch. 2 -	3
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63-3026A	Amended .....	Ch. 83 -	203
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63-3029A	Amended .....	Ch. 40 -	82
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63-3045A	Referred to .....	Ch.244 -	590
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63-3060A	New Section Added .....	Ch.244 -	590
63-3068	Amended .....	Ch.244 -	591
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63-3072	Amended .....	Ch.112 -	271
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63-3616	Amended .....	Ch.271 -	707
63-3621	Amended .....	Ch. 34 -	74
63-3621	Amended .....	Ch.113 -	272
63-3622FF	Amended .....	Ch. 34 -	73
63-3638	Amended .....	Ch. 20 -	30
63-3638	Amended .....	Ch.243 -	586
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65-502	Amended .....	Ch.188 -	465
65-503A	Amended .....	Ch.187 -	464
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65-702	New Section Added .....	Ch.277 -	716
65-703	New Section Added .....	Ch.277 -	716
65-704	New Section Added .....	Ch.277 -	717
65-705	New Section Added .....	Ch.277 -	717
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66-329	Amended .....	Ch.293 -	772
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66-404	Amended .....	Ch.262 -	644
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# IDAHO STATE OFFICIAL DIRECTORY

## ELECTED OFFICIALS

### CONGRESSIONAL

#### UNITED STATES SENATORS

Senator Mike Crapo (R)  
251 E. Front St., Ste. 205  
Boise, Idaho 83702

Senator James E. Risch (R)  
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Boise, Idaho 83702

#### REPRESENTATIVES IN CONGRESS

Raul Labrador (R), First District  
33 Broadway, Ste. 251  
Meridian, Idaho 83642

Mike Simpson (R), Second District  
802 W. Bannock, Ste. 600  
Boise, Idaho 83702

### STATE ELECTED OFFICIALS

GOVERNOR C.L. "Butch" Otter (R)

LIEUTENANT GOVERNOR Brad Little (R)

SECRETARY OF STATE Ben T. Ysursa (R)

STATE CONTROLLER Brandon D Woolf (R)

STATE TREASURER Ron G. Crane (R)

ATTORNEY GENERAL Lawrence Wasden (R)

SUPERINTENDENT OF PUBLIC INSTRUCTION Tom Luna (R)

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# LEGISLATORS BY DISTRICT

## 1 - BONNER & BOUNDARY COUNTIES

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 Public Relations  
 CO-CHAIR-Economic Outlook and Revenue Assessment Committee  
 VICE CHAIR-Finance/JFAC  
 Transportation

Spouse - Mike

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 General Contracting/Real Estate  
 CHAIR-Ways & Means  
 Environment, Energy, & Technology; Resources & Conservation; State  
 Affairs

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## 2 - KOOTENAI COUNTY

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## 3 - KOOTENAI COUNTY

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## 4 - KOOTENAI COUNTY

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 Commerce & Human Resources; Economic Outlook and Revenue  
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LEGISLATORS BY DISTRICT (Continued)

5 - BENEWAH & LATAH COUNTIES

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**Shirley G. Ringo (D) House Seat B** ..... 6th Term  
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6 - LEWIS & NEZ PERCE COUNTIES

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 farm/ranch  
 VICE CHAIR-Health & Welfare  
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 Homes Inc.  
 VICE CHAIR-Transportation & Defense  
 Education; Resources & Conservation

8 - BOISE, CUSTER, GEM, LEMHI & VALLEY COUNTIES

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 Resources & Conservation; Revenue & Taxation

LEGISLATORS BY DISTRICT (Continued)

9 - ADAMS, CANYON, PAYETTE & WASHINGTON COUNTIES

**Monty J. Pearce (R) Senate** ..... 6th Term  
 Served 2 terms, House 1999-2002  
 2001 County Line Rd., New Plymouth 83655  
 Home 278-5408  
 Email: [mpearce@senate.idaho.gov](mailto:mpearce@senate.idaho.gov)  
 Rancher  
 CHAIR-Resources & Environment  
 Education

Spouse - Merry

**Lawrence Denney (R) House Seat A** ..... 9th Term  
 P.O. Box 114, Midvale 83645  
 Home 355-2374 FAX 334-2491  
 Email: [ldenney@house.idaho.gov](mailto:ldenney@house.idaho.gov)  
 Farmer  
 CHAIR-Resources & Conservation  
 Revenue & Taxation; Transportation & Defense

Spouse - Donna

11 - CANYON COUNTY

**Patti Anne Lodge (R) Senate** ..... 7th Term  
 P.O. Box 96, Huston 83630  
 Home 459-7158  
 Email: [palodge@senate.idaho.gov](mailto:palodge@senate.idaho.gov)  
 Agri-Business Owner/ Retired Educator  
 CHAIR-Judiciary & Rules  
 Health & Welfare; Joint Millennium Fund Committee; State Affairs

Spouse - Edward J.

**Gayle L. Batt (R) House Seat A** ..... 1st Term  
 25253 Graphic Lane, Wilder 83676  
 Home 337-5600  
 Email: [gbatt@house.idaho.gov](mailto:gbatt@house.idaho.gov)  
 Homemaker  
 VICE CHAIR-State Affairs  
 Agricultural Affairs; Business; Joint Legislative Oversight/JLOC

Spouse - Roger

**Judy Boyle (R) House Seat B** ..... 3rd Term  
 2301 Valley Rd., Midvale 83645  
 Home 355-3225 Bus 631-2123 FAX 355-3225  
 Email: [jboyle@house.idaho.gov](mailto:jboyle@house.idaho.gov)  
 Rancher/Freelance Writer  
 VICE CHAIR-Agricultural Affairs  
 Education; Resources & Conservation

**Christy Perry (R) House Seat B** ..... 2nd Term  
 8791 Elkhorn Lane, Nampa 83686  
 Home 880-9720  
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 Businesswoman  
 VICE CHAIR-Health & Welfare  
 Judiciary, Rules, & Administration; Local Government

Spouse - Matt

10 - CANYON COUNTY

**Jim Rice (R) Senate** ..... 1st Term  
 2319 Polk Street, Caldwell 83605  
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 Attorney  
 VICE CHAIR-Local Government & Taxation  
 Agricultural Affairs; Transportation

Spouse - Tish

12 - CANYON COUNTY

**Todd M. Lakey (R) Senate** ..... 1st Term  
 34 S. Bingham St., Nampa 83651  
 Home 465-5897 Bus 908-4415  
 Email: [tlakey@senate.idaho.gov](mailto:tlakey@senate.idaho.gov)  
 Attorney  
 Commerce & Human Resources; Health & Welfare; Judiciary & Rules

Spouse - Jan

**Brandon A. Hixon (R) House Seat A** ..... 1st Term  
 910 N. Plateau Ave., Caldwell 83605  
 Home 440-1074  
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 Business; Health & Welfare; Transportation & Defense

Spouse - Danielle

**Robert Anderst (R) House Seat A** ..... 1st Term  
 7401 E. Grey Lag Dr., Nampa 83687  
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 Email: [randerst@house.idaho.gov](mailto:randerst@house.idaho.gov)  
 Commercial Real Estate Broker  
 Commerce & Human Resources; Environment, Energy, & Technology; Joint Millennium Fund Committee; Revenue & Taxation

Spouse - LaDawn

**Darrell Bolz (R) House Seat B** ..... 7th Term  
 3412 College Ave., Caldwell 83605-6136  
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 U of I Extension Professor Emeritus  
 VICE CHAIR-Appropriations/JFAC  
 Agricultural Affairs; Judiciary, Rules, & Administration

Spouse - Carol

**Rick D. Youngblood (R) House Seat B** ..... 1st Term  
 12612 Smith Ave., Nampa 83651  
 Home 412-5107 Bus 412-5107  
 Email: [ryoungblood@house.idaho.gov](mailto:ryoungblood@house.idaho.gov)  
 Banker (community)  
 Appropriations/JFAC; Business; Transportation & Defense

Spouse - Arlene

LEGISLATORS BY DISTRICT (Continued)

13 - CANYON COUNTY

**Curt McKenzie** (R) Senate ..... 6th Term  
 412 W. Franklin St., Boise 83702  
 Bus 344-4379 FAX 331-2150  
 Email: [cmckenzie@senate.idaho.gov](mailto:cmckenzie@senate.idaho.gov)  
 Attorney ..... Spouse - Renee  
 CHAIR-State Affairs  
 Economic Outlook and Revenue Assessment Committee; Local Government  
 & Taxation

**Brent J. Crane** (R) House Seat A ..... 4th Term  
 ASSISTANT MAJORITY LEADER  
 P.O. Box 86, Nampa 83653  
 Bus 466-0613 FAX 461-4815  
 Email: [bcrane@house.idaho.gov](mailto:bcrane@house.idaho.gov)  
 Vice President, Crane Alarm Service ..... Spouse - Rochenda  
 Business; State Affairs; Ways & Means

**Gary E. Collins** (R) House Seat B ..... 7th Term  
 2019 E. Massachusetts, Nampa 83686  
 Home 466-5460  
 Email: [gcollins@house.idaho.gov](mailto:gcollins@house.idaho.gov)  
 Insurance Broker ..... Spouse - Ann  
 CHAIR-Revenue & Taxation  
 Business; Economic Outlook and Revenue Assessment Committee

14 - ADA COUNTY

**Marv Hagedorn** (R) Senate ..... 1st Term  
 Served 3 terms, House 2006-2012  
 5285 W. Ridgeside St., Meridian 83646  
 Home 867-5643  
 Email: [mhagedorn@senate.idaho.gov](mailto:mhagedorn@senate.idaho.gov)  
 Retired Naval Officer ..... Spouse - Patty  
 Health & Welfare; Judiciary & Rules; Transportation

**Mike Moyle** (R) House Seat A ..... 8th Term  
 MAJORITY LEADER  
 480 N. Plummer Rd., Star 83669  
 Home 286-7842 Bus 286-7842  
 Email: [mmoyle@house.idaho.gov](mailto:mmoyle@house.idaho.gov)  
 Agribusiness ..... Spouse - Sue Ann  
 Resources & Conservation; Revenue & Taxation; Ways & Means

**Reed DeMordaunt** (R) House Seat B ..... 2nd Term  
 1017 S. Arbor Island Way, Eagle 83616  
 Home 938-4845 Bus (888) 340-9866  
 Email: [reedd@house.idaho.gov](mailto:reedd@house.idaho.gov)  
 Businessman/Entrepreneur ..... Spouse - Gayann  
 CHAIR-Education  
 Environment, Energy, & Technology

15 - ADA COUNTY

**Fred S. Martin** (R) Senate ..... 1st Term  
 3672 Tumbleweed Pl., Boise 83713  
 Home 447-9000  
 Email: [fmartin@senate.idaho.gov](mailto:fmartin@senate.idaho.gov)  
 Retired; Teacher, Businessman and CEO ..... Spouse - Darla  
 Commerce & Human Resources; Health & Welfare; Joint Millennium Fund  
 Committee

**Lynn M. Luker** (R) House Seat A ..... 4th Term  
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 Attorney ..... Spouse - Helen  
 VICE CHAIR-Judiciary, Rules, & Administration  
 Local Government; State Affairs

**Mark Patterson** (R) House Seat B ..... 1st Term  
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 Business Owner ..... Spouse - Andrea  
 Judiciary, Rules, & Administration; Revenue & Taxation; Transportation &  
 Defense

16 - ADA COUNTY

**Les Bock** (D) Senate ..... 3rd Term  
 Served 1 term, House 2006-2008  
 5960 Willowdale Lane, Garden City 83714  
 Home 319-6874  
 Email: [lbock@senate.idaho.gov](mailto:lbock@senate.idaho.gov)  
 Artisan Furniture Construction/Artist ..... Spouse - Dunnia Aplicano  
 Health & Welfare; Judiciary & Rules; Transportation

**Grant Burgoyne** (D) House Seat A ..... 3rd Term  
 ASSISTANT MINORITY LEADER  
 2203 Mountain View Dr., Boise 83706  
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 Attorney ..... Spouse - Christy  
 Economic Outlook and Revenue Assessment Committee; Judiciary, Rules, &  
 Administration; Revenue & Taxation; Ways & Means

**Hy Kloc** (D) House Seat B ..... 1st Term  
 3932 Oak Park Pl., Boise 83703  
 Home 343-8465  
 Email: [hkloc@house.idaho.gov](mailto:hkloc@house.idaho.gov)  
 Retired, Boise State Public Radio ..... Spouse - Joan L. Wallace  
 Education; Local Government



LEGISLATORS BY DISTRICT (Continued)

17 - ADA COUNTY

**Elliot Werk (D) Senate** ..... 6th Term  
 ASSISTANT MINORITY LEADER  
 6810 Randolph Dr., Boise 83709  
 Bus 658-0388  
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 Spouse - Nancy Greenwald  
 Joint Millennium Fund Committee; Judiciary & Rules; Local Government & Taxation; State Affairs

**John Gannon (D) House Seat A** ..... 1st Term  
 Served 1 term, House 1990-1992  
 1104 Johnson St., Boise 83705  
 Home 343-1608 Bus 433-0629  
 Email: [jgannon@house.idaho.gov](mailto:jgannon@house.idaho.gov)  
 Attorney Fiancé - Bev  
 Business; State Affairs; Transportation & Defense

**Susan B. "Sue" Chew (D) House Seat B** ..... 4th Term  
 1304 Lincoln Ave., Boise 83706  
 Home 344-0098  
 Email: [schew@house.idaho.gov](mailto:schew@house.idaho.gov)  
 Adjunct Professor/Licensed Pharmacist  
 Health & Welfare; Local Government

18 - ADA COUNTY

**Branden J. Durst (D) Senate** ..... 1st Term  
 Served 2 terms, House 2006-2010  
 P.O. Box 170117, Boise 83717  
 Bus 332-1425  
 Email: [bdurst@senate.idaho.gov](mailto:bdurst@senate.idaho.gov)  
 Managing Partner, Consulting Firm Spouse - Jaime  
 Agricultural Affairs; Commerce & Human Resources; Economic Outlook and Revenue Assessment Committee; Education

**Janie Ward-Engelking (D) House Seat A** ..... 1st Term  
 3578 S. Crosspoint Ave., Boise 83706  
 Home 385-9564  
 Email: [jwardengelking@house.idaho.gov](mailto:jwardengelking@house.idaho.gov)  
 Retired teacher Spouse - Kay  
 Education; Resources & Conservation

**Phylis K. King (D) House Seat B** ..... 4th Term  
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 Commercial Photographer  
 Appropriations/JFAC; Commerce & Human Resources; Joint Millennium Fund Committee; Transportation & Defense

19 - ADA COUNTY

**Cherie Buckner-Webb (D) Senate** ..... 1st Term  
 Served 1 term, House 2010-2012  
 MINORITY CAUCUS CHAIR  
 2304 W. Bella St., Boise 83702  
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 Owner/Principal, Sojourner Coaching Spouse - Henry Webb  
 Agricultural Affairs; Education; Transportation

**Mat Erpelding (D) House Seat A** ..... 1st Term  
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 Owner, Leadership Development Firm/Outfitter and Guide  
 Agricultural Affairs; Resources & Conservation; Revenue & Taxation

**Holli Woodings (D) House Seat B** ..... 1st Term  
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 Renewable Energy Consultant Spouse - Ryan  
 Commerce & Human Resources; Environment, Energy, & Technology; State Affairs

20 - ADA COUNTY

**Chuck Winder (R) Senate** ..... 3rd Term  
 ASSISTANT MAJORITY LEADER  
 5528 N. Ebbetts Ave., Boise 83713  
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 Businessman Spouse - Dianne  
 State Affairs; Transportation

**Joe Palmer (R) House Seat A** ..... 3rd Term  
 1524 N. Meridian Rd., Meridian 83642  
 Bus 887-9488  
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 Self-Employed Spouse - Leslie  
 CHAIR-Transportation & Defense  
 Business; Economic Outlook and Revenue Assessment Committee; State Affairs

**James Holtzclaw (R) House Seat B** ..... 1st Term  
 3720 N. Heritage View Ave., Meridian 83646  
 Home 284-9542  
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 Real Estate Broker Spouse - Michelle  
 Commerce & Human Resources; Local Government; State Affairs

LEGISLATORS BY DISTRICT (Continued)

21 - ADA COUNTY

**Clifford R. Bayer (R) Senate** ..... 1st Term  
 Served 5 terms, House 2002-2012  
 8020 W. Amity, Boise 83709  
 Home 362-5058 FAX 362-5058  
 Email: [cbayer@senate.idaho.gov](mailto:cbayer@senate.idaho.gov)  
 Medical Research Scientist Spouse - Nicole  
 Economic Outlook and Revenue Assessment Committee; Finance/JFAC;  
 Joint Legislative Oversight/JLOC; Local Government & Taxation

**Steven Harris (R) House Seat A** ..... 1st Term  
 851 E. Martinique Dr., Meridian 83642  
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 Email: [sharris@house.idaho.gov](mailto:sharris@house.idaho.gov)  
 Businessman/Entrepreneur Spouse - Wendy  
 Commerce & Human Resources; Education; Local Government

**Thomas Dayley (R) House Seat B** ..... 1st Term  
 4892 S. Willandra Way, Boise 83709  
 Home 562-0276  
 Email: [tdayley@house.idaho.gov](mailto:tdayley@house.idaho.gov)  
 Retired Spouse - Catherine  
 Agricultural Affairs; Judiciary, Rules, & Administration; Revenue &  
 Taxation

22 - ADA COUNTY

**Russell M. Fulcher (R) Senate** ..... 5th Term  
 MAJORITY CAUCUS CHAIR  
 P.O. Box 1166, Meridian 83680-1166  
 Bus 332-1340 FAX 332-1422  
 Email: [rfulcher@senate.idaho.gov](mailto:rfulcher@senate.idaho.gov)  
 Commercial Real Estate Spouse - Kara  
 Economic Outlook and Revenue Assessment Committee; Education; State  
 Affairs

**John Vander Woude (R) House Seat A** ..... 2nd Term  
 Served 1 term, House 2006-2008  
 MAJORITY CAUCUS CHAIR  
 5311 Ridgewood Rd., Nampa 83687  
 Home 888-4210 Bus 888-3003 FAX 888-9268  
 Email: [jvanderwoude@house.idaho.gov](mailto:jvanderwoude@house.idaho.gov)  
 Retail Store Operator Spouse - Judy  
 Environment, Energy, & Technology; Health & Welfare; Resources &  
 Conservation; Ways & Means

**Jason A. Monks (R) House Seat B** ..... 1st Term  
 1002 W. Washington Dr., Meridian 83642  
 Home 871-7127 Bus 884-8684 FAX 895-8013  
 Email: [jmonks@house.idaho.gov](mailto:jmonks@house.idaho.gov)  
 Small Business Owner Spouse - Shelley  
 Business; Environment, Energy, & Technology; State Affairs

23 - ELMORE, OWYHEE & TWIN FALLS COUNTIES

**Bert Brackett (R) Senate** ..... 3rd Term  
 Served 1 term, House 2006-2008  
 48331 Three Creek Highway, Rogerson 83302  
 Home 857-2217  
 Email: [bbrackett@senate.idaho.gov](mailto:bbrackett@senate.idaho.gov)  
 Rancher Spouse - Paula  
 CHAIR-Transportation  
 Agricultural Affairs; Resources & Environment

**Richard "Rich" Wills (R) House Seat A** ..... 6th Term  
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 Home 366-7408 Bus 484-0403 FAX 366-2457  
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 Business Owner, Opera Theatre/  
 Communications Consulting Business Spouse - Connie  
 CHAIR-Judiciary, Rules, & Administration  
 Education; Transportation & Defense

**Pete Nielsen (R) House Seat B** ..... 6th Term  
 4303 S.W. Easy St., Mountain Home 83647  
 Home 832-4382 Bus 832-4382 FAX 832-4382  
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 Life & Health Insurance Agent Spouse - Connie  
 VICE CHAIR-Education  
 Environment, Energy, & Technology; Judiciary, Rules, & Administration

24 - TWIN FALLS COUNTY

**Lee Heider (R) Senate** ..... 2nd Term  
 1631 Richmond Dr., Twin Falls 83301  
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 Retired, Contractor/Broker Spouse - Jan  
 CHAIR-Health & Welfare  
 Resources & Environment

**Lance Clow (R) House Seat A** ..... 1st Term  
 2170 Bitterroot Dr., Twin Falls 83301  
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 Retired, Personal Financial Advisor Spouse - Dee Dee  
 Business; Education; Local Government

**Stephen Hartgen (R) House Seat B** ..... 3rd Term  
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 Email: [shartgen@house.idaho.gov](mailto:shartgen@house.idaho.gov)  
 Business Consultant/Economic Development Spouse - Linda  
 CHAIR-Commerce & Human Resources  
 Economic Outlook and Revenue Assessment Committee; Environment,  
 Energy, & Technology; Joint Millennium Fund Committee; Revenue &  
 Taxation

LEGISLATORS BY DISTRICT (Continued)

25 - JEROME & TWIN FALLS COUNTIES

**Jim Patrick (R) Senate** ..... 1st Term  
 Served 3 terms, House 2006-2012  
 2231 E. 3200 N., Twin Falls 83301  
 Home 733-6897 Bus 733-6897 FAX 734-8968  
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 Farmer  
 VICE CHAIR-Commerce & Human Resources  
 Agricultural Affairs; Education  
 Spouse - Afton

**Maxine T. Bell (R) House Seat A** ..... 12th Term  
 194 S. 300 E., Jerome 83338  
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 Retired Farmer/Retired School Librarian  
 CHAIR-Appropriations  
 CO-CHAIR-JFAC  
 Agricultural Affairs; Joint Legislative Oversight/JLOC  
 Spouse - H. Jack

**Clark Kauffman (R) House Seat B** ..... 1st Term  
 3791 N. 2100 E., Filer 83328  
 Home 326-4131 FAX 326-4132  
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 Farmer  
 Business; Revenue & Taxation; Transportation & Defense  
 Spouse - Debbie

26 - BLAINE, CAMAS, GOODING & LINCOLN COUNTIES

**Michelle Stennett (D) Senate** ..... 2nd Term  
 MINORITY LEADER  
 P.O. Box 475, Ketchum 83340  
 Home 726-8106  
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 Self-employed  
 Resources & Environment; State Affairs

**Steven Miller (R) House Seat A** ..... 1st Term  
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 Farmer/Rancher  
 Agricultural Affairs; Appropriations/JFAC; Resources & Conservation

**Donna Pence (D) House Seat B** ..... 5th Term  
 MINORITY CAUCUS CHAIR  
 1960 U.S. Highway 26, Gooding 83330  
 Home 934-5302  
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 Retired Teacher/Tree Farmer  
 Agricultural Affairs; Education; Resources & Conservation; Ways & Means  
 Spouse - Lew

27 - CASSIA & MINIDOKA COUNTIES

**Dean L. Cameron (R) Senate** ..... 12th Term  
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 Owner, Insurance & Investment Agency  
 CHAIR-Finance  
 CO-CHAIR-JFAC  
 Commerce & Human Resources; Resources & Environment  
 Spouse - Linda

**Scott Bedke (R) House Seat A** ..... 7th Term  
 SPEAKER OF THE HOUSE  
 P.O. Box 89, Oakley 83346  
 Home 862-3619  
 Email: [sbedke@house.idaho.gov](mailto:sbedke@house.idaho.gov)  
 Rancher  
 Economic Outlook and Revenue Assessment Committee  
 Spouse - Sarah

**Fred Wood (R) House Seat B** ..... 4th Term  
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 Home 312-1056 FAX 677-3136  
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 Physician/Medical Director, Cassia Regional  
 Medical Center  
 CHAIR-Health & Welfare  
 Joint Millennium Fund Committee; Resources & Conservation  
 Spouse - Amy

28 - BANNOCK & POWER COUNTIES

**Jim Guthrie (R) Senate** ..... 1st Term  
 Served 1 term, House 2010-2012  
 425 W. Goodenough Rd., McCammon 83250  
 Home 254-3605 Bus 254-9205  
 Email: [jguthrie@senate.idaho.gov](mailto:jguthrie@senate.idaho.gov)  
 Rancher/Business Owner  
 VICE CHAIR-Agricultural Affairs  
 Commerce & Human Resources; Health & Welfare  
 Spouse - Barbara

**Ken Andrus (R) House Seat A** ..... 5th Term  
 6948 E. Old Oregon Trail Rd., Lava Hot Springs 83246  
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 Email: [kandrus@house.idaho.gov](mailto:kandrus@house.idaho.gov)  
 Cattle & Sheep Rancher  
 CHAIR-Agricultural Affairs  
 Resources & Conservation; State Affairs  
 Spouse - Colleen

**Kelley Packer (R) House Seat B** ..... 1st Term  
 P.O. Box 147, McCammon 83250  
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 Email: [kpacker@house.idaho.gov](mailto:kpacker@house.idaho.gov)  
 Office Manager  
 Judiciary, Rules, & Administration; State Affairs; Transportation & Defense  
 Spouse - Duane

LEGISLATORS BY DISTRICT (Continued)

29 - BANNOCK COUNTY

**Roy Lacey (D) Senate** ..... 1st Term  
 Served 1 term, House 2010-2012  
 13774 W. Trail Creek Rd., Pocatello 83204  
 Home 232-7053  
 Email: [rlacey@senate.idaho.gov](mailto:rlacey@senate.idaho.gov)  
 Retired  
 Finance/JFAC; Local Government & Taxation; Resources & Environment

Spouse - Renée

31 - BINGHAM COUNTY

**Steve Bair (R) Senate** ..... 4th Term  
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 Email: [sbair@senate.idaho.gov](mailto:sbair@senate.idaho.gov)  
 Farmer/Investor  
 CHAIR-Agricultural Affairs  
 VICE CHAIR-Resources & Environment

Spouse - Lori Kae

**Carolyn Meline (D) House Seat A** ..... 1st Term  
 655 S. 10th, Pocatello 83201  
 Home 233-3211  
 Email: [cmeline@house.idaho.gov](mailto:cmeline@house.idaho.gov)  
 Retired  
 Judiciary, Rules, & Administration; Local Government; Revenue & Taxation

Spouse - Bob

**Neil A. Anderson (R) House Seat A** ..... 1st Term  
 71 S. 700 W., Blackfoot 83221  
 Home 684-3723  
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 Retired Financial Advisor, Rancher  
 VICE CHAIR-Commerce & Human Resources  
 Environment, Energy, & Technology; Revenue & Taxation

Spouse - Sue

**Elaine Smith (D) House Seat B** ..... 7th Term  
 3759 Heron Ave., Pocatello 83201  
 Home 237-1462  
 Email: [esmith@house.idaho.gov](mailto:esmith@house.idaho.gov)  
 Retired  
 Business; Economic Outlook and Revenue Assessment Committee;  
 Environment, Energy, & Technology; Joint Legislative Oversight/JLOC;  
 State Affairs

Spouse - Rich

**Julie VanOrden (R) House Seat B** ..... 1st Term  
 425 S. 1100 W., Pingree 83262  
 Home 684-4052  
 Email: [jvanorden@house.idaho.gov](mailto:jvanorden@house.idaho.gov)  
 Agribusiness co-owner/homemaker  
 Agricultural Affairs; Commerce & Human Resources; Education

Spouse - Garth

30 - BONNEVILLE COUNTY

**Dean M. Mortimer (R) Senate** ..... 3rd Term  
 Served 1 term, House 2007-2008  
 7403 S. 1st E., Idaho Falls 83404  
 Home 528-6377 Bus 524-9000 FAX 524-9999  
 Email: [dmortimer@senate.idaho.gov](mailto:dmortimer@senate.idaho.gov)  
 Builder/Developer  
 VICE CHAIR-Education  
 Finance/JFAC; Joint Legislative Oversight/JLOC; Judiciary & Rules

Spouse - Judy

32 - BEAR LAKE, BONNEVILLE, CARIBOU, FRANKLIN, ONEIDA & TETON COUNTIES

**John H. Tippetts (R) Senate** ..... 2nd Term  
 Served 7 terms, House 1988-2000  
 610 Red Canyon Road, Montpelier 83254  
 Home 847-2876 Bus 547-1823  
 Email: [jtippetts@senate.idaho.gov](mailto:jtippetts@senate.idaho.gov)  
 Public Affairs Manager  
 CHAIR-Commerce & Human Resources  
 Agricultural Affairs; Resources & Environment

Spouse - Nancy

**Jeff Thompson (R) House Seat A** ..... 3rd Term  
 1739 Peggy's Lane, Idaho Falls 83402  
 Home 524-7367 FAX 524-7367  
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 Businessman/Educator  
 VICE CHAIR-Business  
 Appropriations/JFAC; Economic Outlook and Revenue Assessment  
 Committee; Environment, Energy, & Technology;

Spouse - Chanin

**Marc Gibbs (R) House Seat A** ..... 3rd Term  
 632 Highway 34, Grace 83241  
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 Farmer  
 CO-CHAIR-Economic Outlook and Revenue Assessment Committee  
 VICE CHAIR-Resources & Conservation  
 Appropriations/JFAC; Transportation & Defense

Spouse - Bonne

**Wendy Horman (R) House Seat B** ..... 1st Term  
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 Email: [WendyHorman@house.idaho.gov](mailto:WendyHorman@house.idaho.gov)  
 Mother, Small Business Owner  
 Education; Judiciary, Rules, & Administration; Local Government

Spouse - Briggs

**Thomas F. Loertscher (R) House Seat B** ..... 5th Term  
 Served 8 terms, House 1987-2002  
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 Farmer/Rancher  
 CHAIR-State Affairs  
 Commerce & Human Resources

Spouse - Linda

LEGISLATORS BY DISTRICT (Continued)

33 - BONNEVILLE COUNTY

**Bart M. Davis** (R) Senate ..... 8th Term  
 MAJORITY LEADER  
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 Attorney Spouse - Marion  
 Judiciary & Rules; State Affairs

**Janet Trujillo** (R) House Seat A ..... 1st Term  
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 Certified Property Tax Appraiser Spouse - Lowell  
 Environment, Energy, & Technology; Judiciary, Rules, & Administration;  
 Revenue & Taxation

**Linden B. Bateman** (R) House Seat B ..... 2nd Term  
 Served 5 terms, House 1977-1986  
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 Education; Judiciary, Rules, & Administration; Transportation & Defense

34 - BONNEVILLE & MADISON COUNTIES

**Brent Hill** (R) Senate ..... 7th Term  
 PRESIDENT PRO TEMPORE  
 1010 S. 2nd E., Rexburg 83440  
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 Certified Public Accountant Spouse - Julie  
 Economic Outlook and Revenue Assessment Committee; Local Government  
 & Taxation; State Affairs

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 Retired Ford Dealer Spouse - Eileen N. Whitaker  
 Commerce & Human Resources; Health & Welfare; Local Government

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 Farmer/Businessman Spouse - Vera  
 CHAIR-Environment, Energy, & Technology  
 Resources & Conservation; Revenue & Taxation

35 - BUTTE, CLARK, FREMONT & JEFFERSON COUNTIES

**Jeff C. Siddoway** (R) Senate ..... 4th Term  
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 Rancher Spouse - Cindy  
 CHAIR-Local Government & Taxation  
 Resources & Environment; State Affairs

**JoAn E. Wood** (R) House Seat A ..... 16th Term  
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 Partner, Ranch/Farm Spouse - Tom  
 VICE CHAIR-Revenue & Taxation  
 Resources & Conservation; Transportation & Defense

**Paul Romrell** (R) House Seat B ..... 1st Term  
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 Retired Spouse - Ellen  
 Agricultural Affairs; Commerce & Human Resources; Health & Welfare

