

GENERAL LAWS
OF THE
STATE OF IDAHO



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

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Volume 1

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

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SECRETARY OF STATE

BEN YSURSA
Secretary of State
Boise, Idaho

CHAPTER 1
(S.B. No. 1224)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-514, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN EVALUATIONS; DECLARING AN EMERGENCY; AND PROVIDING A CONTINGENT SUNSET DATE.

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 -- 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 two (2) categories of annual contracts available to local school districts under which to employ certificated personnel:

(a) A category A contract is a limited one (1) year contract for certificated personnel in the first 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 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 A contract and therefore the employee shall not be entitled to a review by the board of trustees of the reasons or decision not to reemploy.

(b) A category B contract is a limited two (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 shall have the option to immediately grant renewable contract status, or to place the employee on a category A or B contract. 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 one (1) written evaluation in each of the annual contract years of employment, the first portion of which shall be completed before February 1 of each year, ~~and shall include input from parents and guardians of students as a factor.~~ 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 and input from parents and guardians of students. The objective measure(s) of growth in student achievement shall comprise at least fifty percent (50%) of the total written evaluation. 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 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.

SECTION 3. If Chapter 96, Laws of 2011, is rejected through voter referendum in November 2012, the provisions of this act shall be null, void and of no further force or effect.

Approved January 31, 2012.

CHAPTER 2
(H.B. No. 355)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3004, IDAHO CODE, TO UPDATE REFERENCES TO THE INTERNAL REVENUE CODE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3004. INTERNAL REVENUE CODE. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States, as amended, and in effect on the first day of January, 2011~~2~~.

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

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, 2012.

Approved February 6, 2012.

CHAPTER 3
(H.B. No. 361)

AN ACT

RELATING TO SALES AND USE TAXES; AMENDING SECTION 63-3622R, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE APPLICATION OF EXEMPTIONS FOR VEHICLES REGISTERED UNDER THE INTERNATIONAL REGISTRATION PLAN.

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

SECTION 1. That Section 63-3622R, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622R. MOTOR VEHICLES, USED MANUFACTURED HOMES, VESSELS, ALL-TERRAIN VEHICLES, TRAILERS, OFF-ROAD MOTORCYCLES, SNOWMOBILES AND GLIDER KITS. There are exempted from the taxes imposed by this chapter:

(a) Sales to nonresidents of motor vehicles, trailers, vessels, all-terrain vehicles (ATVs), motorcycles intended for off-road use and snowmobiles, for use outside of this state even though delivery be made within this state, but only when:

(1) The motor vehicles, vessels, ATVs, motorcycles intended for off-road use, snowmobiles or trailers will be taken from the point of delivery in this state directly to a point outside this state; and

(2) The motor vehicles, vessels, ATVs, motorcycles intended for off-road use, snowmobiles and trailers will be registered immediately under the laws of another state, will be titled in another state if required to be titled in that state, will not be used in this state more than sixty (60) days in any twelve (12) month period, and will not be required to be titled under the laws of this state.

(3) For the purpose of this subsection (a), the term "all-terrain vehicle" or "ATV" means all-terrain vehicle or ATV as defined in section 49-102, Idaho Code.

(4) For the purpose of this section, the term "vessel" means any boat intended to carry one (1) or more persons upon the water which is either:

(i) Sold together with a motor, or

(ii) Eleven (11) feet in length or more, but shall not include canoes, kayaks or inflatable boats, unless such canoes, kayaks or inflatable boats are sold together with a motor.

(b) Sale of used manufactured homes, whether or not such used manufactured homes are sold for use outside this state, and whether or not such used manufactured homes are sold by a dealer. Every manufactured home sale after its sale as a "new manufactured home," as defined in section 63-3606, Idaho Code, is a sale as a used manufactured home.

(c) Sale or lease of motor vehicles with a maximum gross registered weight over twenty-six thousand (26,000) pounds, which shall be immediately registered under the international registration plan, whether or not base plated in Idaho, and the sale or lease of trailers which are part of a fleet of vehicles registered under the international registration plan when such vehicles and trailers are substantially used in interstate commerce. If such a motor vehicle or trailer is not substantially used in interstate commerce during any annual registration period four (4) fiscal year quarters beginning July 1 and ending June 30 of each year under the international registration plan, it shall be deemed used in Idaho and subject to the use tax under section 63-3621, Idaho Code. For the purpose of this subsection, "substantially used in interstate commerce" means that the vehicles or trailers will be part of a fleet with a minimum of ten percent (10%) of the miles operated by the fleet accrued outside of Idaho in any annual registration

period four (4) fiscal year quarters beginning July 1 and ending June 30 of each year under the international registration plan.

(d) The sale or purchase of a glider kit when the glider kit will be used to assemble a glider kit vehicle as defined in section 49-123, Idaho Code, which will be immediately registered under a plan defined in subsection (c) of this section, provided that if the glider kit vehicle is not substantially used in interstate commerce as defined in subsection (c) of this section during any registration period, it shall be subject to the use tax under section 63-3621, Idaho Code.

(e) The use or other consumption of a motor vehicle temporarily donated to a driver's education program sponsored by a nonprofit educational institution as defined in section 63-36220, Idaho Code.

Approved February 8, 2012.

CHAPTER 4
(H.B. No. 356)

AN ACT

RELATING TO PROPERTY TAXES; AMENDING SECTION 63-501, IDAHO CODE, TO REMOVE THE REQUIREMENT THAT THE COUNTY BOARD OF EQUALIZATION SHALL GRANT OR DENY APPLICATIONS FOR PROPERTY TAX EXEMPTIONS; AMENDING SECTION 63-501A, IDAHO CODE, TO PROVIDE THAT THE COUNTY BOARD OF EQUALIZATION SHALL HEAR APPEALS RELATING TO THE GRANT OR DENIAL OF APPLICATIONS FOR PROPERTY TAX EXEMPTIONS; AMENDING SECTION 63-602, IDAHO CODE, TO CLARIFY THE DUTIES OF THE COUNTY BOARD OF EQUALIZATION WITH REGARD TO APPROVAL OF PROPERTY TAX EXEMPTIONS AND TO PROVIDE RELATED PROCEDURES.

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

SECTION 1. That Section 63-501, Idaho Code, be, and the same is hereby amended to read as follows:

63-501. MEETING OF COMMISSIONERS AS A BOARD OF EQUALIZATION. (1) The county commissioners of each county shall convene as a board of equalization at least once in every month of the year up to the fourth Monday of June for the purpose of equalizing the assessments of property on the property roll and shall meet on the aforesaid date in each year:

- (a) To complete the equalization of assessments on all property which has not yet been equalized; and
- (b) ~~To grant, allow or deny applications for exemption from property tax valuation; and~~
- (c) ~~To hear appeals of assessment or exemption of property which are received on or before the end of each county's normal business hours on the fourth Monday of June.~~

Upon meeting to complete the equalization of assessments, the board of equalization shall continue in session from day to day until equalization of the assessments of such property has been completed and shall also hear and determine complaints upon allowing or disallowing exemptions under chapter 6, title 63, Idaho Code. The board of equalization must complete such business and adjourn as a board of equalization on the second Monday of July, provided that the board of equalization may adjourn any time prior to the aforesaid date when they have completed all of the business as a board of equalization.

The county assessor or his designee shall attend all meetings of the county commissioners in session as a board of equalization and he may make any statements or introduce testimony and examine witnesses on questions before the board of equalization relating to the assessments.

(2) The county commissioners of each county in this state shall meet as a board of equalization on the fourth Monday of November in each year for the purpose of:

- (a) Equalizing the assessments of all property entered upon the subsequent property roll;
- (b) Determining complaints and hearing appeals in regard to the assessment of such property;
- (c) Allowing or disallowing exemptions and cancellations claimed under the provisions of this title affecting the assessment or taxation of property entered upon the rolls, and having a settlement with the assessor and tax collector.

The board of equalization shall complete its business and adjourn on or before the first Monday of December in each year, but if other personal or real property is discovered and assessed after the subsequent board of equalization has adjourned, and is entered on the missed property roll, the taxpayer may appeal that assessment to the county commissioners meeting as a board of equalization, for the purposes stated in subsection (2) (a), (b) and (c) of this section, during its monthly meeting in January of the following year, provided however, that said meeting must be no sooner than the first Monday in January.

SECTION 2. That Section 63-501A, Idaho Code, be, and the same is hereby amended to read as follows:

63-501A. TAXPAYER'S RIGHT TO APPEAL. (1) Taxpayers may file an appeal of an assessment or exemption decision with the county board of equalization. An appeal shall be made in writing on a form provided by the county board of equalization or assessor and must identify the taxpayer, the property which is the subject of the appeal and the reason for the appeal. An appeal of an assessment listed on the property roll must be filed on or before the end of the county's normal business hours on the fourth Monday of June. An appeal of an assessment listed on the subsequent property roll must be filed on or before the end of the county's normal business hours on the fourth Monday of November. An appeal of an assessment listed on the missed property roll must be filed on or before the board of equalization adjourns on the day of its January meeting. The board of equalization may consider an appeal only if it is timely filed.

(2) Appeals from the county board of equalization shall be made pursuant to section 63-511, Idaho Code.

SECTION 3. That Section 63-602, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

Approved February 8, 2012.

CHAPTER 5
(H.B. No. 360)

AN ACT

RELATING TO TAXATION; AMENDING SECTION 63-117, IDAHO CODE, TO AUTHORIZE THE STATE TAX COMMISSION TO ACCEPT PAYMENT OF TAXES BY MEANS OF AN ELECTRONIC PAYMENT PROCESSOR.

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

SECTION 1. That Section 63-117, Idaho Code, be, and the same is hereby amended to read as follows:

63-117. PAYMENT OF TAXES BY CREDIT CARD AND OTHER COMMERCIALY ACCEPTABLE MEANS. (1) The state tax commission, in cooperation with the state treasurer, may accept payment by credit card, debit card or other commercially acceptable means, including through an electronic payment processor, from any person making any payment to the state tax commission of taxes or other amounts due under any law administered by the commission. If the payment is made by credit card, debit card, charge card, or similar method, the liability is not finally discharged and the person has not paid the tax until the department receives payment or credit from the institution responsible for making the payment or credit. Upon receipt, the amount shall be deemed paid on the date the charge was made.

(2) The commission may pay, through discount or otherwise, any fee to a financial institution, er credit card company or electronic payment pro-

cessor, for a payment made pursuant to this section from the proceeds of the taxes or other amounts paid prior to any other distribution of the proceeds required by law. The necessary portion of the proceeds collected under this section is hereby appropriated for the purpose of paying the fee.

Approved February 8, 2012.

CHAPTER 6
(H.B. No. 362)

AN ACT

RELATING TO TAXES; AMENDING SECTION 63-3045, IDAHO CODE, TO PROVIDE FOR MAILING NOTICES OF DEFICIENCY DETERMINATION BY FIRST CLASS MAIL RATHER THAN BY REGISTERED OR CERTIFIED MAIL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3061A, IDAHO CODE, TO PROVIDE FOR MAILING OF NOTICES OF LEVY AND DISTRRAINT BY FIRST CLASS MAIL RATHER THAN BY REGISTERED OR CERTIFIED MAIL; REPEALING SECTIONS 63-3045 AND 63-3061A, IDAHO CODE, RELATING TO NOTICE OF REDETERMINATION OR DEFICIENCY AND NOTICE OF LEVY AND DISTRRAINT; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3045, IDAHO CODE, TO PROVIDE FOR A NOTICE OF REDETERMINATION OR DEFICIENCY; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3061A, IDAHO CODE, TO PROVIDE FOR NOTICE OF LEVY AND DISTRRAINT; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 63-3045, Idaho Code, be, and the same is hereby amended to read as follows:

63-3045. NOTICE OF REDETERMINATION OR DEFICIENCY -- INTEREST.

(1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by ~~registered or certified~~ first class mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

(b) If the taxpayer files a protest with the state tax commission within the period set forth in subsection (1)(a) of this section, and such protest does not comply with the rules of the state tax commission and is therefore inadequate to perfect the taxpayer's right to a redetermination of the deficiency determination, then, the state tax commission shall notify the taxpayer, in the same manner as set forth in subsection (1)(a) of this section, of such inadequacies, setting forth in said notice the corrective action to be taken by the taxpayer to perfect his protest. The taxpayer shall thereafter have twenty-eight (28) days from the date of said notice to perfect his protest.

(c) No assessment of a deficiency in respect to the tax imposed by this chapter, and no distraint or proceedings in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until all appeal rights relating to the deficiency have become final.

(2) Following a protest, the taxpayer has the right to a hearing. The purpose of the hearing is to discuss the deficiency determination and the taxpayer's protest with a commissioner or duly authorized representative of the commission. The meeting shall be held informally and evidence shall be freely admitted regardless of the rules of evidence.

(3) Any hearing conducted under the provisions of this section may be conducted, in whole or in part, by telephone, television, or other electronic means, if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place.

(4) A taxpayer has the right to be represented by, or be accompanied by, any person of his choice in any proceeding before the tax commission. If the taxpayer is not present at a proceeding, the representative of that taxpayer must be designated in writing by the taxpayer as shall be prescribed in administrative rules or in any manner acceptable to the tax commission.

(5) If the taxpayer does not file a protest with the state tax commission within the time prescribed in subsection (1)(a) of this section, the deficiency shall be assessed and shall become due and payable upon notice and demand from the state tax commission.

(6) (a) Interest shall apply to deficiencies in tax and refunds of tax. Interest shall not apply to any penalty or to unpaid accrued interest. Interest relating to deficiencies or refunds accruing after the original due date of the return, but not including extensions of the due date, shall be computed on the net of any underpayments and overpayments of a tax liability required to be shown as due on the same return.

(b) Interest upon any deficiency shall be assessed at the same time as the deficiency, shall be due and payable upon notice and demand from the state tax commission and shall be collected as a part of the tax at the rate per annum determined under the provisions of subsection (6)(c) of this section from the date prescribed for the payment of the tax. In the event any of the deficiency is reduced by reason of a carryback of a net operating loss or a capital loss carryback, such reduction in deficiency shall not affect the computation of interest under this subsection for the period ending with the last day of the taxable year in which the net operating loss or capital loss arises.

(c) The rate of interest accruing during any calendar year, or portion thereof, upon any deficiency, or payable upon an overpayment or refund shall be two percent (2%) plus the rate determined under section 1274(d), Internal Revenue Code, by the secretary of the treasury of the United States as the midterm federal rate as it applies on September 15 of the immediately preceding calendar year rounded to the nearest whole number.

(7) When the time provisions contained in this section conflict with the provisions of section 63-4208, Idaho Code, relating to the assessment of taxes on illegal possession of controlled substances, the provisions of section 63-4208, Idaho Code, shall prevail.

SECTION 2. That Section 63-3061A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3061A. NOTICE OF LEVY AND DISTRAINT. (1) The state tax commission shall, at the time of levy, provide to the taxpayer and to any person in possession of the property subject to distraint, written notice of levy and distraint. The written notice of levy and distraint may be:

- (a) Given in person;
- (b) Left at the dwelling place or usual place of business of such person; or
- (c) Sent by certified first class mail to such person's last known address.

(2) Service may be made by other means, including electronic means as provided in chapter 50, title 28, Idaho Code, the uniform electronic transactions act, when agreed upon by the state tax commission and the party served.

SECTION 3. That Sections 63-3045 and 63-3061A, Idaho Code, be, and the same are hereby repealed.

SECTION 4. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3045, Idaho Code, and to read as follows:

63-3045. NOTICE OF REDETERMINATION OR DEFICIENCY -- INTEREST.

(1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

(b) If the taxpayer files a protest with the state tax commission within the period set forth in subsection (1) (a) of this section, and such protest does not comply with the rules of the state tax commission and is therefore inadequate to perfect the taxpayer's right to a redetermination of the deficiency determination, then, the state tax commission shall notify the taxpayer, in the same manner as set forth in subsection (1) (a) of this section, of such inadequacies, setting forth in said notice the corrective action to be taken by the taxpayer to perfect his protest. The taxpayer shall thereafter have twenty-eight (28) days from the date of said notice to perfect his protest.

(c) No assessment of a deficiency in respect to the tax imposed by this chapter, and no distraint or proceedings in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until all appeal rights relating to the deficiency have become final.

(2) Following a protest, the taxpayer has the right to a hearing. The purpose of the hearing is to discuss the deficiency determination and the taxpayer's protest with a commissioner or duly authorized representative of the commission. The meeting shall be held informally and evidence shall be freely admitted regardless of the rules of evidence.

(3) Any hearing conducted under the provisions of this section may be conducted, in whole or in part, by telephone, television, or other electronic means, if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place.

(4) A taxpayer has the right to be represented by, or be accompanied by, any person of his choice in any proceeding before the tax commission. If the taxpayer is not present at a proceeding, the representative of that taxpayer must be designated in writing by the taxpayer as shall be prescribed in administrative rules or in any manner acceptable to the tax commission.

(5) If the taxpayer does not file a protest with the state tax commission within the time prescribed in subsection (1) (a) of this section, the deficiency shall be assessed and shall become due and payable upon notice and demand from the state tax commission.

(6) (a) Interest shall apply to deficiencies in tax and refunds of tax. Interest shall not apply to any penalty or to unpaid accrued interest. Interest relating to deficiencies or refunds accruing after the original due date of the return, but not including extensions of the due date, shall be computed on the net of any underpayments and overpayments of a tax liability required to be shown as due on the same return.

(b) Interest upon any deficiency shall be assessed at the same time as the deficiency, shall be due and payable upon notice and demand from the state tax commission and shall be collected as a part of the tax at the rate per annum determined under the provisions of subsection (6) (c) of this section from the date prescribed for the payment of the tax. In the event any of the deficiency is reduced by reason of a carryback of a net operating loss or a capital loss carryback, such reduction in deficiency shall not affect the computation of interest under this subsection for the period ending with the last day of the taxable year in which the net operating loss or capital loss arises.

(c) The rate of interest accruing during any calendar year, or portion thereof, upon any deficiency, or payable upon an overpayment or refund shall be two percent (2%) plus the rate determined under section 1274(d), Internal Revenue Code, by the secretary of the treasury of the United States as the midterm federal rate as it applies on September 15 of the immediately preceding calendar year rounded to the nearest whole number.

(7) When the time provisions contained in this section conflict with the provisions of section 63-4208, Idaho Code, relating to the assessment of taxes on illegal possession of controlled substances, the provisions of section 63-4208, Idaho Code, shall prevail.

SECTION 5. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3061A, Idaho Code, and to read as follows:

63-3061A. NOTICE OF LEVY AND DISTRAINT. (1) The state tax commission shall, at the time of levy, provide to the taxpayer and to any person in possession of the property subject to distraint, written notice of levy and distraint. The written notice of levy and distraint may be:

(a) Given in person;

(b) Left at the dwelling place or usual place of business of such person; or

(c) Sent by certified mail to such person's last known address.

(2) Service may be made by other means, including electronic means as provided in chapter 50, title 28, Idaho Code, the uniform electronic transactions act, when agreed upon by the state tax commission and the party served.

SECTION 6. Sections 1 and 2 of this act shall be in full force and effect on and after July 1, 2012. Sections 3, 4 and 5 of this act shall be in full force and effect on and after July 1, 2013.

Approved February 8, 2012.

CHAPTER 7
(H.B. No. 395)

AN ACT

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

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

SECTION 1. There is hereby appropriated and the State Controller shall transfer \$4,093,300 from the General Fund to the Fire Suppression Deficiency Fund. Such moneys shall be used to reimburse costs incurred by the Range and Forest Fire Protection Program in the Department of Lands pursuant to Sections 38-131 and 38-131A, Idaho Code.

SECTION 2. There is hereby appropriated and the State Controller shall transfer \$62,600 from the General Fund to the Pest Control Deficiency Fund. Such moneys shall be used to reimburse costs incurred by the Plant Industries Program in the Department of Agriculture pursuant to Section 22-2019, Idaho Code.

SECTION 3. There is hereby appropriated and the State Controller shall transfer \$69,800 from the General Fund to the Hazardous Substance Emergency Response Fund. Such moneys shall be used to reimburse costs incurred by the Bureau of Homeland Security in the Military Division of the Office of the Governor pursuant to Section 39-7110, Idaho Code.

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

Approved February 8, 2012.

CHAPTER 8
(S.B. No. 1258)

AN ACT

RELATING TO THE APPROPRIATION TO THE IDAHO COMMISSION FOR LIBRARIES; AMENDING SECTION 1, CHAPTER 166, LAWS OF 2011, TO REVISE THE APPROPRIATION TO THE IDAHO COMMISSION FOR LIBRARIES FOR FISCAL YEAR 2012; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 166, Laws of 2011, be, and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Idaho Commission for Libraries, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2011, through June 30, 2012:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$1,638,400	\$1,359,300			\$2,997,700
American Reinvestment					
Fund		400,000	\$400,000		800,000
		<u>800,000</u>			
Miscellaneous Revenue					
Fund		24,300	25,000	\$26,000	75,300
Federal Grant					
Fund	<u>477,500</u>	<u>693,400</u>	<u>25,000</u>	<u>284,400</u>	<u>1,480,300</u>
TOTAL	\$2,115,900	\$2,477,000	\$450,000	\$310,400	\$5,353,300
		<u>\$2,877,000</u>	<u>\$50,000</u>		

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

Approved February 10, 2012.

CHAPTER 9
(H.B. No. 357)

AN ACT

RELATING TO PROPERTY TAXES; AMENDING SECTION 63-1705, IDAHO CODE, TO ESTABLISH STANDARDS AND METHODS FOR THE VALUATION FOR THE TAXATION OF FOREST LANDS UNDER THE PRODUCTIVITY OPTION TO APPLY FOR A TEN YEAR PERIOD, TO PROVIDE FOR THE FOREST MANAGEMENT ALLOWANCE TO BE CALCULATED ON CERTAIN CRITERIA AND TO MAKE A TECHNICAL CORRECTION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-1705, Idaho Code, be, and the same is hereby amended to read as follows:

63-1705. TAXATION OF FOREST LANDS UNDER THE PRODUCTIVITY OPTION. (1) In order to encourage private forest landowners to retain and improve their holdings of forest lands and to promote better forest management, forest lands subject to this option shall be appraised, assessed and taxed as real property under the provisions of this section.

(2) The forest land value shall be determined by the timber productivity valuation process, as provided for in the committee on forest land taxation methodologies, User's Guide to the Timber Productivity Option's Valuation Method - 2005 (Schlosser, January 1, 2005, Moscow, Idaho), referred to in this chapter as the "user's guide," on file with the Idaho state tax commission, available on the website of the Idaho state tax commission, and which shall be made available in the office of each county assessor, which values the net wood production over a reasonable rotation period plus other agricultural-related income, if any, less annualized

custodial expenses as defined in section 63-1701, Idaho Code. Pursuant to the provisions of this section, the inventory of forest products shall not be included as part of the valuation of the forest land as provided in section 63-602W, Idaho Code. The state tax commission shall promulgate rules relating to the timber productivity valuation process, including custodial expenses, as provided for in the user's guide and the provisions of this chapter.

(3) The market value for assessment purposes shall be determined annually by the county assessor using the timber productivity valuation process developed by the CFTM, and as further prescribed in rule. Effective January 1, 2012, the forest land values for taxation purposes will be floored at the 2011 valuation level of all four (4) of the forest value zones for the next ten (10) year period. The ceiling for taxation purposes for forest land values during such ten (10) year period will be capped at thirty percent (30%) above the 2011 forest land values. The annual changes for taxation purposes shall be limited to not more than a five percent (5%) annual increase or decrease from the immediate prior year based upon the 2005 "user's guide" valuation model, provided however, that no decrease shall be in an amount less than the established floor nor increase above the established ceiling.

Actual annual valuation calculations shall also be tracked, though not necessarily utilized for taxation purposes. Actual annual valuation calculations may drop below the floor or rise above the ceiling. Forest land values derived by the model will be used as the forest land value for taxation purposes only when the derived value is between the floor and the ceiling. Furthermore, the actual annual valuation calculations shall not exceed a five percent (5%) adjustment from the previous year's valuation calculation. When the model derived values for a given year are below the floor, the forest land value for taxation purposes will be equal to the floor value for that year. When the model derived values in a given year are above the ceiling, the forest land value for taxation purposes will be equal to the ceiling for that year.

Notwithstanding any other provision of law, the state tax commission is authorized to cite the user's guide in its rules and shall:

- (a) Divide the state into appropriate forest valuation zones, with each zone designated so as to recognize the uniqueness of marketing areas, timber types, growth rates, access, operability, and other pertinent factors of that zone;
- (b) Establish a uniform system of forest land classification which considers the productive capacity of the soil to grow forest products and furnish other associated agricultural uses;
- (c) Provide for the annual input to the timber productivity valuation process including the stumpage value, rotation length, mean annual increment, guiding discount rate, annualized custodial expenses, appropriate property tax rates, and real price appreciation rate of stumpage according to the user's guide. The guiding discount rate and the real price appreciation rate for timber products shall remain constant at four percent (4%) and one and one-quarter percent (1.25%) respectively, until January 1, 2012⁷;
- (d) Upon the recommendation of the CFTM or when deemed appropriate by the commission according to evidence of significant trends in custodial expenses, conduct a forest management cost study; provided however, that such forest management cost study shall be no more frequent than five (5) years from the previous forest management cost study. The forest management cost study and a report shall be provided to the CFTM following a recommendation of any changes in custodial expenses and the CFTM shall determine whether the cost study will be incorporated into the forest land valuation process. The forest management cost allowance (FMCA) will continue to be calculated based on the 2004 CFTM negotiated custodial rates and indexed by the adjustment in the ten (10)

year rolling average changes in the producer price index (PPI), as has been done by the Idaho state tax commission since 2005, and this will remain in effect until January 1, 2017; and

(e) Provide for any additional data as needed.

(4) The state tax commission shall by March 1 of each year, furnish all input for the timber productivity valuation process to the county assessor.

(5) Stumpage values shall be based upon the preceding five (5) year rolling average value of timber harvested within the forest value zone from state timber sales and/or the best available data for the same five (5) year period. Average agricultural-related income and the average expense component for each forest value zone shall be determined for the same time period as the period used to determine average stumpage values.

(6) Forest lands upon which, at any time after January 1, 1982, the trees are destroyed by fire, disease, insect infestation or other natural disaster such that the lands affected will not meet minimum stocking requirements under rules adopted pursuant to chapter 13, title 38, Idaho Code, shall be eligible for a reduction in value for the first ten (10) property tax years following the loss. The amount of reduction shall be determined by dividing the average age of the trees destroyed by the rotation age for the specific forest productivity class appropriate for the affected acres. In no instance shall the annual reduction exceed eighty percent (80%) of the original forest value per year. In order to obtain a reduction, the landowner shall, on or before January 1, following the destruction, make written application to the assessor indicating the legal description of the lands in question and stating all pertinent facts. The assessor may investigate the facts and may request assistance from the state tax commission in performing such investigations. If the requirements are met, such forest lands shall be assessed and taxed on the reduced basis herein provided.

(7) Buildings and other improvements, other than roads, located on forest lands shall be appraised, assessed and taxed as provided by applicable laws and rules.

(8) There is created within the Idaho state tax commission the CFTM. The membership of the CFTM shall be:

(a) A nonvoting chairman who shall be the member of the Idaho state tax commission assigned to property tax matters;

(b) Four (4) members who are representing business entities owning not less than five thousand (5,000) acres of Idaho forest land, provided that there shall be only one (1) representative for each individual business entity and provided further that affiliated business entities shall be considered a single business entity for the purposes of this section. The business entity employing such member shall designate a successor member at its discretion. If a vacancy occurs among the representatives of forest landowners owning not less than five thousand (5,000) acres, a replacement member will be selected by the remaining members qualifying under the provisions of this section;

(c) One (1) member selected from the membership of the Idaho forest owners' association;

(d) Five (5) members selected from the membership of the Idaho association of counties; and

(e) The state superintendent of public instruction or his/her designee, in a nonvoting capacity.

The CFTM may retain a forest economist selected by a majority of its members to advise the CFTM.

The costs of each CFTM member shall be borne by the respective member. The fees and costs of the forest economist shall be borne as determined by the CFTM.

The CFTM may prepare and deliver written reports to the house of representatives revenue and taxation and senate local government and taxation committees of its findings and recommendations for legislation as the need

may arise. The CFTM may meet periodically as determined by its chairman or the CFTM.

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, 2012.

Approved February 13, 2012.

CHAPTER 10
(H.B. No. 363)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3022, IDAHO CODE, TO PROVIDE TREATMENT FOR CERTAIN PASSIVE LOSSES INCURRED WHEN A TAXPAYER DID NOT CONDUCT BUSINESS IN IDAHO; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

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

(a) Add any state and local taxes, as defined in section 164 of the Internal Revenue Code and, measured by net income, paid or accrued during the taxable year adjusted for state or local tax refunds used in arriving at taxable income.

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

(c) (1) A net operating loss for any taxable year commencing on and after January 1, 2000, shall be a net operating loss carryback not to exceed a total of one hundred thousand dollars (\$100,000) to the two (2) immediately preceding taxable years. Any portion of the net operating loss not subtracted in the two (2) preceding years may be subtracted in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted. The sum of the deductions may not exceed the amount of the net operating loss deduction incurred. At the election of the taxpayer, the two (2) year carryback may be foregone and the loss subtracted from income received in taxable years arising in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted. The election shall be made as under section 172(b)(3) of the Internal Revenue Code. An election under this subsection must be in the manner prescribed in the rules of the state tax commission and once made is irrevocable for the year in which it is made. The term "income" as used in this subsection (c) means Idaho taxable income as defined in this chapter as modified by section 63-3021(b)(2), (3) and (4), Idaho Code.

(2) Net operating losses incurred by a corporation during a year in which such corporation did not transact business in Idaho or was not included in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, may not be subtracted. However, if at least one (1) corporation within a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, was transacting business

in Idaho during the taxable year in which the loss was incurred, then the net operating loss may be subtracted. Net operating losses incurred by a person, other than a corporation, in activities not taxable by Idaho may not be subtracted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 2. 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, 2012.

Approved February 13, 2012.

CHAPTER 11
(S.B. No. 1257)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATION; AMENDING SECTION 2, CHAPTER 292, LAWS OF 2011, TO REVISE THE APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2012; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 292, Laws of 2011, be, and the same is hereby amended to read as follows:

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, 2011, through June 30, 2012:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. DIRECTOR'S OFFICE (MANAGEMENT SERVICES):				
FROM:				
General				
Fund	\$140,300	\$47,500		\$187,800
Indirect Cost Recovery				
Fund	488,200	240,100		728,300
	<u>619,200</u>	<u>250,700</u>		<u>869,900</u>
Administration and Accounting Services				
Fund	25,200			25,200
	<u>50,000</u>	<u>10,000</u>		<u>60,000</u>
Industrial Special Indemnity				
Fund	<u>147,500</u>	<u>107,200</u>		<u>254,700</u>
TOTAL	\$801,200	\$394,800		\$1,196,000
	<u>\$957,000</u>	<u>\$415,400</u>		<u>\$1,372,400</u>
II. ADMINISTRATIVE RULES:				
FROM:				
Administrative Code				
Fund	\$201,000	\$310,900		\$511,900
III. INFORMATION TECHNOLOGY RESOURCE MGMT COUNCIL:				
FROM:				
General				
Fund	\$66,800	\$9,500		\$76,300
Administration and Accounting Services				
Fund	<u>408,700</u>	<u>137,500</u>		<u>546,200</u>
TOTAL	\$475,500	\$147,000		\$622,500
IV. INFORMATION TECHNOLOGY:				
FROM:				
General				
Fund	\$549,700	\$430,800		\$980,500
Idaho Education Network				
Fund	354,400	2,055,400	\$590,200	3,000,000
		<u>2,545,400</u>	<u>\$100,200</u>	
Indirect Cost Recovery				
Fund	422,400	42,700	7,500	472,600
		<u>67,600</u>		<u>497,500</u>
Administration and Accounting Services				
Fund	<u>388,500</u>	<u>375,000</u>	<u>0</u>	<u>763,500</u>
		<u>484,100</u>		<u>872,600</u>
TOTAL	\$1,715,000	\$2,903,900	\$597,700	\$5,216,600
		<u>\$3,527,900</u>	<u>\$107,700</u>	<u>\$5,350,600</u>

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
V. PUBLIC WORKS:				
FROM:				
General				
Fund		\$293,100		\$293,100
Permanent Building				
Fund	\$1,688,600	669,500	\$104,000	2,462,100
Administration and Accounting Services				
Fund	<u>1,493,700</u>	<u>4,364,500</u>	<u>0</u>	<u>5,858,200</u>
		<u>5,705,000</u>		<u>7,198,700</u>
TOTAL	\$3,182,300	<u>\$5,327,100</u>	\$104,000	<u>\$8,613,400</u>
		<u>\$6,667,600</u>		<u>\$9,953,900</u>
VI. PURCHASING:				
FROM:				
General				
Fund	\$660,400			\$660,400
Administration and Accounting Services				
Fund	860,000	\$1,161,500	\$280,000	2,301,500
Federal Surplus Property Revolving				
Fund	<u>109,900</u>	<u>156,900</u>	<u>0</u>	<u>266,800</u>
TOTAL	\$1,630,300	\$1,318,400	\$280,000	\$3,228,700
VII. INSURANCE MANAGEMENT:				
FROM:				
Employee Group Insurance				
Fund	\$262,400	\$431,100		\$693,500
		<u>\$471,100</u>		<u>\$733,500</u>
Retained Risk				
Fund	<u>396,900</u>	<u>177,500</u>		<u>574,400</u>
TOTAL	\$659,300	\$608,600		\$1,267,900
		<u>\$648,600</u>		<u>\$1,307,900</u>
VIII. BOND PAYMENTS:				
FROM:				
General				
Fund		\$2,687,400	\$1,680,200	\$4,367,600
Permanent Building				
Fund		9,073,200	18,288,200	27,361,400
		<u>9,473,200</u>		<u>27,761,400</u>
Administration and Accounting Services				
Fund		422,200	<u>229,000</u>	651,200
		<u>424,200</u>		<u>653,200</u>
TOTAL		\$12,182,800	\$20,197,400	\$32,380,200
		<u>\$12,584,800</u>		<u>\$32,782,200</u>

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
GRAND TOTAL	\$8,664,600	\$23,193,500	\$21,179,100	\$53,037,200
	<u>\$8,820,400</u>	<u>\$25,620,600</u>	<u>\$20,689,100</u>	<u>\$55,130,100</u>

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

Approved February 14, 2012.

CHAPTER 12
(S.B. No. 1267)

AN ACT

RELATING TO THE APPROPRIATION TO THE IDAHO DIVISION OF VOCATIONAL REHABILITATION, AMENDING SECTION 2, CHAPTER 254, LAWS OF 2011, TO REVISE THE APPROPRIATION TO THE IDAHO DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2012; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 254, Laws of 2011, be, and the same is hereby amended to read as follows:

SECTION 2. There is hereby appropriated to the Division of Vocational Rehabilitation, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2011, through June 30, 2012:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COMMUNITY SUPPORTED EMPLOYMENT:					
FROM:					
General					
Fund	\$64,100	\$23,700		\$3,248,300	\$3,336,100
II. RENAL DISEASE SERVICES:					
FROM:					
General					
Fund	\$67,300			\$437,100	\$504,400
				<u>\$352,700</u>	<u>\$420,000</u>
III. VOCATIONAL REHABILITATION:					
FROM:					
General					
Fund	\$1,471,800	\$254,800		\$1,188,000	\$2,914,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Rehabilitation Revenue and Refunds					
Fund	1,078,500				1,078,500
Miscellaneous Revenue					
Fund				958,500	958,500
Federal Grant					
Fund	<u>6,521,100</u>	<u>1,171,400</u>	<u>\$21,000</u>	<u>6,736,500</u>	<u>14,450,000</u>
TOTAL	\$9,071,400	\$1,426,200	\$21,000	\$8,883,000	\$19,401,600
IV. COUNCIL FOR THE DEAF AND HARD OF HEARING:					
FROM:					
General					
Fund	\$40,100				\$40,100
	<u>\$124,500</u>				<u>\$124,500</u>
Federal Grant					
Fund	<u>95,900</u>	<u>\$42,900</u>	<u>\$2,000</u>	<u>\$7,500</u>	<u>148,300</u>
TOTAL	\$136,000	\$42,900	\$2,000	\$7,500	\$188,400
GRAND TOTAL	\$9,338,800	\$1,492,800	\$23,000	\$12,575,900	\$23,430,500
	<u>\$9,327,300</u>	<u>\$1,449,900</u>	<u>\$21,000</u>	<u>\$12,484,000</u>	<u>\$23,282,200</u>

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

Approved February 14, 2012.

CHAPTER 13
(H.B. No. 364)

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3022A, IDAHO CODE, TO CLARIFY THE DEDUCTION FOR RETIREMENT BENEFITS PAID TO CERTAIN RETIRED POLICE OFFICERS AND REVISING THE DEFINITION OF "DISABLED"; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3022A. DEDUCTION OF CERTAIN RETIREMENT BENEFITS. (a) An amount specified by subsection (b) of this section of the following retirement benefits may be deducted by an individual from taxable income if such individual has either attained age sixty-five (65) years, or has attained age sixty-two (62) years and is classified as disabled:

(1) Retirement annuities paid by the United States of America to a retired civil service employee or the unremarried widow or widower of a retired civil service employee.

(2) Retirement benefits paid from the firemen's retirement fund of the state of Idaho to a retired fireman or the unremarried widow or widower of a retired fireman.

(3) Retirement benefits paid ~~from the policemen's retirement fund of a city within this state to a retired policeman or the unremarried widow of a retired policeman~~ to a retired Idaho city police officer:

(i) By a city or its agent in regard to a policeman's retirement fund that no longer admits new members and on January 1, 2012, was administered by a city in this state; or

(ii) In regard to a policeman's retirement fund that no longer admits new members and on January 1, 2012, was administered by the public employee retirement system of Idaho; or

(iii) By the public employee retirement system of Idaho to a retired police officer in regard to Idaho employment not included in the federal social security retirement system; or

(iv) An unremarried widow or widower of a person described in subparagraph (i), (ii) or (iii) of this paragraph.

(4) Retirement benefits paid by the United States of America to a retired member of the military services of the United States or the unremarried widow of such member.

(b) The amount of retirement benefits that may be deducted from taxable income shall be an amount not in excess of maximum retirement benefits under the social security act, as amended, on the date on which this act is passed and approved, including adjustments to be made based upon consumer price index adjustments provided in section 215 of the social security act. The state tax commission shall ascertain benefit changes made in accordance with the social security act and publish the appropriate deduction amounts provided by this section reflecting such changes annually. Maximum retirement benefits under the social security act shall mean:

(1) In the case of a taxpayer who files a joint return with his spouse for the tax year, an amount equal to the maximum social security benefits payable for the tax year to a person attaining full retirement age in the tax year who has earned the maximum earnings creditable under social security for the years used in the computation of his benefits, and whose spouse has no social security benefits except those payable on his record of earnings.

(2) In the case of a taxpayer who is not married, an amount equal to maximum social security benefits payable for the tax year to a person attaining full retirement age in the tax year who has earned the maximum earnings creditable under social security for the years used in the computation of his benefits.

(3) In the case of an unremarried widow, an amount equal to the maximum social security benefits payable for the tax year to a widow attaining full retirement age in the tax year who has no social security benefits except those to which she is entitled on her deceased husband's record and whose husband had received no reduced retirement benefits prior to his death and whose husband had earned the maximum earnings creditable under social security for the years used in the computation of his benefits under social security.

(4) Maximum retirement benefits shall, in every case, take into consideration and be adjusted to reflect adjustments that would be made to such amounts had they been received as social security benefits as the result of the receipt of earnings in excess of earnings limitations. The terms in this paragraph are those defined in the social security act.

(5) Taxpayers not described in paragraphs (1), (2), (3) and (4) of this subsection may not deduct any amount of retirement benefits under this section.

(c) The total deduction under this section may not exceed the total amount of retirement benefits or annuities which are described in subsection (a) of this section and which are included in the taxpayer's gross income in the tax year. If the taxpayer or the taxpayer's spouse receives retirement benefits under the federal railroad retirement act or the federal social security act in the tax year, then the amount of any retirement annuities computed under subsection (b) of this section shall be reduced by the amount of such federal railroad retirement act and federal social security act retirement benefits received by either the taxpayer or the taxpayer's spouse, and the lesser of the amount so computed or the total amount of retirement benefits or annuities which are described in subsection (a) of this section and which are included in the taxpayer's gross income shall constitute the allowable deduction. Furthermore, the allowable deduction as calculated under this section may be subject to additional limitations under section 63-3026A(6), Idaho Code, and the rules promulgated thereunder.

~~(d) As used in this section, the word "widow" shall include a widower.~~

~~(e) As used in this section, the word "disabled" shall mean an individual who is a disabled person described in section 63-701, Idaho Code or an individual who qualifies as a person with a "permanent disability" under section 49-117(7) (b) (iv), Idaho Code.~~

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2012.

Approved February 14, 2012.

CHAPTER 14
(H.B. No. 365)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3022, IDAHO CODE, TO CLARIFY THE DEDUCTION FOR NET OPERATING LOSSES; AMENDING SECTION 63-30220, IDAHO CODE, TO CLARIFY THE ADJUSTED BASIS OF DEPRECIABLE PROPERTY, DEPRECIATION AND GAINS AND LOSSES RELATING TO PROPERTY OTHERWISE SUBJECT TO SUBSECTION (k) OF SECTION 168 OF THE INTERNAL REVENUE CODE; AMENDING SECTION 63-3029I, IDAHO CODE, TO PROVIDE A CORRECT CITATION; AMENDING SECTION 63-3067, IDAHO CODE, TO REMOVE OBSOLETE AND SURPLUS LANGUAGE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

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

(a) Add any state and local taxes, as defined in section 164 of the Internal Revenue Code and, measured by net income, paid or accrued during the taxable year adjusted for state or local tax refunds used in arriving at taxable income.

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

(c) (1) A net operating loss for any taxable year commencing on and after January 1, 2000, shall be a net operating loss carryback not to exceed a total of one hundred thousand dollars (\$100,000) to the two (2) immediately preceding taxable years. Any portion of the net operating loss not subtracted from income in the two (2) preceding years may be subtracted from income in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted. The sum of the deductions may not exceed the amount of the net operating loss deduction incurred. At the election of the taxpayer, the two (2) year carryback may be foregone and the loss subtracted from income received in taxable years arising in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted. The election shall be made as under section 172(b)(3) of the Internal Revenue Code. An election under this subsection must be in the manner prescribed in the rules of the state tax commission and once made is irrevocable for the year in which it is made. The term "income" as used in this subsection (c) means Idaho taxable income as defined in this chapter as modified by section 63-3021(b)(2), (3) and (4), Idaho Code.

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

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

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

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

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

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

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

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

(i) In the case of a corporation, including any corporation included in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, add any capital loss deducted which loss was incurred during any

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

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

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

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

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

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

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

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

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

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

SECTION 2. That Section 63-30220, Idaho Code, be, and the same is hereby amended to read as follows:

63-30220. ADJUSTMENT -- PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001 -- EXPENSES OF ELEMENTARY AND SECONDARY TEACHERS -- SMALL BUSINESS EXPENSES -- LIMITATIONS ON ASSESSMENTS AND REFUNDS. For taxable years commencing on and after January 1, 2001, in computing Idaho taxable income:

(1) The adjusted basis of depreciable property, depreciation and gains and losses from sale, exchange or other disposition of depreciable property acquired after September 10, 2001, and before December 31, 2007, shall be computed without regard to subsection (k) of section 168 of the Internal Revenue Code and the adjusted basis of depreciable property, depreciation and capital gains and losses shall be computed without regard to subsection (k) of section 168 of the Internal Revenue Code, as amended by the "tax relief, unemployment insurance reauthorization and job creation act of 2010" and as amended by the "small business jobs act of 2010"; and

(2) No deduction shall be allowed relating to expenses of elementary and secondary teachers otherwise allowable under section 62(a)(2)(D) of the Internal Revenue Code; and

(3) Adjustments in computing Idaho taxable income required by subsection (1) of this section shall be made without regard to loss limitations imposed by sections 465, 469, 704(d) and 1366(d) of the Internal Revenue Code; and

(4) A taxpayer's basis in an interest in a pass-through entity, amount at risk, and passive activity loss carryover shall be the same amount for purposes of the Idaho income tax act as the amount determined under the Internal Revenue Code; and

(5) Each partner, shareholder, member or beneficiary, shall include in Idaho taxable income his share of the adjustments required by this section in computing Idaho taxable income of any pass-through entity; and

(6) Notwithstanding the provisions of sections 63-3068 and 63-3072, Idaho Code, the period of limitations for issuing a notice of deficiency determination or filing a claim for refund for any year for which an adjustment is required by this section shall not expire before three (3) years from the later of: (a) the due date of the return for the last taxable year an adjustment was required by this section, or (b) the date the return was filed for the last taxable year an adjustment was required by this section. Upon the expiration of the period of limitations as provided in subsections (a) and (m) of section 63-3068, Idaho Code, and subsections (b) and (h) of section 63-3072, Idaho Code, only those specific items of basis, deductions, gains or losses that are computed, without regard to subsection (k) of section 168 of the Internal Revenue Code, as required by this section shall be subject to adjustment.

SECTION 3. That Section 63-3029I, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029I. INCOME TAX CREDIT FOR INVESTMENT IN BROADBAND EQUIPMENT. (1) Subject to the limitations of this section, for taxable years beginning after January 1, 2001, there shall be allowed to a taxpayer a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025 and 63-3025A, Idaho Code, for qualified expenditures in qualified broadband equipment in Idaho.

(2) The credit permitted in subsection (1) of this section shall be three percent (3%) of the qualified investment in qualified broadband equipment in Idaho and shall be in addition to the credit for capital investment permitted by section 63-3029B, Idaho Code.

(3) As used in this section the term:

(a) "Qualified investment" shall be as defined in section 63-3029B, Idaho Code.

(b) "Qualified broadband equipment" means equipment that qualifies for the credit for capital investment permitted by section 63-3029B, Idaho Code, and is capable of transmitting signals at a rate of at least two hundred thousand (200,000) bits per second to a subscriber and at least one hundred twenty-five thousand (125,000) bits per second from a subscriber, and

(i) In the case of a telecommunications carrier, such qualifying equipment shall be necessary to the provision of broadband service and an integral part of a broadband network. "Telecommunications carrier" has the meaning given such term by section ~~3-44~~ 47 U.S.C. 153 of the communications act of 1934, as amended, but does not include a commercial mobile service provider.

(ii) In the case of a commercial mobile service carrier, such qualifying equipment shall extend from the subscriber side of the mobile telecommunications switching office to a transmitting/receiving antenna, including such antenna, on the outside of the structure in which the subscriber is located. "Commercial mobile service carrier" means any person authorized to provide commercial mobile radio service to subscribers as defined in section 20.3 of title 47, Code of Federal Regulations (10-1-99 ed.), as amended.

(iii) In the case of a cable or open video system operator, such qualifying equipment shall extend from the subscriber's side of the headend to the outside of the structure in which the subscriber is located. The terms "cable operator" and "open video system operator" have the meanings given such terms by sections 602(5) and 653, respectively, of the communications act of 1934, as amended.

(iv) In the case of a satellite carrier or a wireless carrier other than listed above, such qualifying equipment is only that equipment that extends from a transmitting/receiving antenna, including such antenna, which transmits and receives signals to or from multiple subscribers to a transmitting/receiving antenna on the outside of the structure in which the subscriber is located. "Satellite carrier" means any person using the facilities of a satellite or satellite services licensed by the federal communications commission and operating a fixed-satellite service or direct broadcast satellite services to provide point-to-multi-point distribution of signals. "Other wireless carrier" means any person, other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video operator, or satellite carrier, providing broadband services to subscribers through the radio transmission of energy.

(v) In the case of packet switching equipment, such packet equipment installed in connection with other qualifying equipment listed in subsections (3)(b)(i) through (3)(b)(iv) of this section, provided it is the last in a series of equipment that transmits signals to a subscriber or the first in a series of equipment that transmits signals from a subscriber. "Packet switching" means controlling or routing the path of a digital transmission signal which is assembled into packets or cells.

(vi) In the case of multiplexing and demultiplexing equipment, such equipment only to the extent that it is deployed in connection with providing broadband services in locations between packet switching equipment and the structure in which the subscriber is located. "Multiplexing" means the transmission of two (2) or more signals over a communications circuit without regard to the communications technology.

(vii) Any property not primarily used to provide services in Idaho to public subscribers is not qualified broadband equipment.

(4) No equipment described in subsections (3) (b) (i) through (3) (b) (vi) of this section shall qualify for the credit provided in subsection (1) of this section until the taxpayer applies to and obtains from the Idaho public utilities commission an order confirming that the installed equipment is qualified broadband equipment. Applications submitted to the commission shall be governed by the commission's rules of procedure. The commission may issue procedural orders necessary to implement this section.

(5) The credit allowed by subsection (1) of this section together with any credits carried forward under subsection (7) of this section shall not, in any one (1) taxable year, exceed the lesser of:

(a) The amount of tax due under sections 63-3024, 63-3025 and 63-3025A, Idaho Code, after allowance for all other credits permitted by this chapter; or

(b) Seven hundred fifty thousand dollars (\$750,000).

When credits earned in more than one (1) taxable year are available, the oldest credits shall be applied first.

(6) In the case of a group of corporations filing a combined report under subsection (t) of section 63-3027, Idaho Code, credit earned by one (1) member of the group but not used by that member may be used by another member of the group, subject to the provisions of subsection (7) of this section, instead of carried over. For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member who earned the credit is no longer included in the combined group.

(7) If the credit allowed by subsection (1) of this section exceeds the limitation under subsection (5) of this section, the excess amount may be carried forward for a period that does not exceed the next fourteen (14) taxable years.

(8) In the event that qualified broadband equipment upon which the credit allowed by this section has been used ceases to qualify for the credit allowed by section 63-3029B, Idaho Code, or is subject to recapture of that credit, the recapture of credit under this section shall be in the same proportion and subject to the same provisions as the amount of credit required to be recaptured under section 63-3029B, Idaho Code.

(9) (a) Subject to the requirements of this subsection, a taxpayer who earns and is entitled to the credit or to an unused portion of the credit allowed by this section may transfer all or a portion of the unused credit to:

(i) Another taxpayer required to file a return under this chapter; or

(ii) To an intermediary for its use or for resale to a taxpayer required to file a return under this chapter.

In the event of either such a transfer, the transferee may claim the credit on the transferee's income tax return originally filed during the calendar year in which the transfer takes place and, in the case of carryover of the credit, on the transferee's returns for the number of years of carryover available to the transferor at the time of the transfer unless earlier exhausted.

(b) Before completing a transfer under this subsection, the transferor shall notify the state tax commission of its intention to transfer the credit and the identity of the transferee. The state tax commission shall provide the transferor with a written statement of the amount of credit available under this section as then appearing in the commission's records and the number of years the credit may be carried over. The transferee shall attach a copy of the statement to any return in regard to which the transferred credit is claimed.

(c) In the event that after the transfer the state tax commission determines that the amount of credit properly available under this section is

less than the amount claimed by the transferor of the credit or that the credit is subject to recapture, the commission shall assess the amount of overstated or recaptured credit as taxes due from the transferor and not the transferee. The assessment shall be made in the manner provided for a deficiency in taxes under this chapter.

(10) In addition to other needed rules, the state tax commission may promulgate rules prescribing, in the case of S corporations, partnerships, trusts or estates, a method of attributing the credit under this section to the shareholders, partners or beneficiaries in proportion to their share of the income from the S corporation, partnership, trust or estate.

SECTION 4. That Section 63-3067, Idaho Code, be, and the same is hereby amended to read as follows:

63-3067. REVENUE RECEIVED -- STATE REFUND ACCOUNT. (1) A sum equal to the amount withheld under section 63-3035A, Idaho Code, shall be distributed fifty percent (50%) to the public school income fund to be utilized to facilitate and provide substance abuse programs in the public school system, and fifty percent (50%) shall be distributed to the counties to be utilized for county juvenile probation services. These funds shall be distributed quarterly to the counties based upon the percentage the population of the county bears to the population of the state as a whole.

(2) All moneys except as provided in subsection (1) of this section, and except as hereinafter provided, received by the state of Idaho under this act shall be deposited by the state tax commission, as received by it, with the state treasurer and shall be placed in and become a part of the general account under the custody of the state treasurer. Providing however, that an amount equal to twenty percent (20%) of the amount deposited with the state treasurer shall be placed in the "state refund account" which is hereby created for the purpose of repaying overpayments, ~~for the purpose of remitting to counties and taxing districts for personal property exempt from taxation pursuant to section 63-602EE, Idaho Code, as provided in subsection (3) of this section, for the purpose of depositing in the trust accounts specified in section 63-3067A, Idaho Code, such amounts as may be designated by individuals for the purpose of depositing in the Idaho ag in the classroom account an amount as may be designated by the individual receiving a refund for such overpayment,~~ and for the purpose of paying any other erroneous receipts illegally assessed or collected, penalties collected without authority and taxes and licenses unjustly assessed, collected or which are excessive in amount. Whenever necessary for the purpose of making prompt payment of refunds, the board of examiners, upon request from the state tax commission, and after review, may authorize the state tax commission to transfer any additional specific amount from income tax collections to the "state refund account." There is appropriated out of the state refund account so much thereof as may be necessary for the payment of the refunds herein provided. Claims for, and payment of refunds under the provisions of this section shall be made in the same manner as other claims against the state of Idaho.

(3) Any unencumbered balance remaining in the state refund account on June 30 of each and every year in excess of the sum of one million five hundred thousand dollars (\$1,500,000) shall be transferred to the general fund and the state controller is hereby authorized and directed on such dates to make such transfers unless the board of examiners, which is hereby authorized to do so, changes the date of transfer or sum to be transferred.

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, and retroactively to January 1, 2012.

Approved February 14, 2012.

CHAPTER 15
(S.B. No. 1223)

AN ACT

RELATING TO SCHOOL PROPERTY; AMENDING SECTION 33-601, IDAHO CODE, TO AUTHORIZE THE USE OF VACANT LAND OF A SCHOOL DISTRICT FOR CERTAIN PURPOSES.

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

SECTION 1. That Section 33-601, Idaho Code, be, and the same is hereby amended to read as follows:

33-601. REAL AND PERSONAL PROPERTY -- ACQUISITION, USE OR DISPOSAL OF SAME. The board of trustees of each school district shall have the following powers and duties:

(1) To rent to or from others, school buildings or other property used, or to be used, for school purposes.

(2) To contract for the construction, repair, or improvement of any real property, or the acquisition, purchase or repair of any equipment, or other personal property necessary for the operation of the school district.

Except for the purchase of curricular materials as defined in section 33-118A, Idaho Code, such contract shall be executed in accordance with the provisions of chapter 28, title 67, Idaho Code.

(3) To designate and purchase any real property necessary for school purposes or in the operation of the district, or remove any building, or dispose of any real property. Prior to, but not more than one (1) year prior to, any purchase or disposal of real property, the board shall have such property appraised by an appraiser certified in the state of Idaho, which appraisal shall be entered in the records of the board of trustees and shall be used to establish the value of the real property. The board of trustees shall determine the size of the site necessary for school purposes. The site shall be located within the incorporated limits of any city within the district; provided, however, that if the board finds that it is not in the best interests of the electors and the students of the district to locate the site within the incorporated limits of a city, the board, by duly adopted resolution setting forth the reasons for its finding, may designate a site located elsewhere within the district. In elementary school districts, except upon removal for highway purposes, a site may be designated or changed only after approval of two-thirds (2/3) or more of the electors voting at the annual meeting.

(4) (a) To convey, except as provided by paragraph (b) of this subsection, by deed, bill of sale, or other appropriate instrument, all of the estate and interest of the district in any property, real or personal. In elementary school districts, except such conveyance as is authorized by subsection (6) of this section, any of the transactions authorized in this subsection shall be subject to the approval of two-thirds (2/3) or more of the electors voting at the annual meeting.

Prior to such sale or conveyance, the board shall have the property appraised pursuant to this section, which appraisal shall be entered in the records of the board of trustees. The property may be sold at public auction or by sealed bids, as the board of trustees shall determine, to the highest bidder. Such property may be sold for cash or for such terms and conditions as the board of trustees shall determine for a period not exceeding ten (10) years, with the annual rate of interest on all deferred payments not less than seven percent (7%) per annum. The title to all property sold on contract shall be retained in the name of the school district until full payment has been made by the purchaser, and title to all property sold under a note and mortgage or deed of trust shall be transferred to the purchaser at the point of sale under

the terms and conditions of the mortgage or deed of trust as the board of trustees shall determine. Notice of the time and the conditions of such sale shall be published twice, and proof thereof made, in accordance with subsections (2) and (3) of section 33-402, Idaho Code, except that when the appraised value of the property is less than one thousand dollars (\$1,000), one (1) single notice by publication shall be sufficient and the property shall be sold by sealed bids or at public auction.

The board of trustees may accept the highest bid, may reject any bid, or reject all bids. If the real property was donated to the school district the board may, within a period of one (1) year from the time of the appraisal, sell the property without additional advertising or bidding. Otherwise, the board of trustees must have new appraisals made and again publish notice for bids, as before. During the sealed bid or public auction process, no real property of the school district can be sold for less than its appraised value. If, thereafter, no satisfactory bid is made and received, the board may proceed under its own direction to sell and convey the property for the highest price the market will bear.

The board of trustees may sell personal property, with an estimated value of less than one thousand dollars (\$1,000), without appraisal, by sealed bid or at public auction, provided that there has been not less than one (1) published advertisement prior to the sale of said property. If the property has an estimated value of less than five hundred dollars (\$500), the property may be disposed of in the most cost-effective and expedient manner by an employee of the district empowered for that purpose by the board, provided however, such employee shall notify the board prior to disposal of said property.

(b) Real and personal property may be exchanged hereunder for other property. Provided, however, that aside from the provisions of this paragraph, any school district may by a vote of one-half (1/2) plus one (1) of the members of the full board of trustees, by resolution duly adopted, authorize the transfer or conveyance of any real or personal property owned by such school district to the government of the United States, any city, county, the state of Idaho, any hospital district organized under chapter 13, title 39, Idaho Code, any cooperative service agency formed pursuant to section 33-317, Idaho Code, any other school district, the Idaho housing and finance association, any public charter school, any library district, any community college district, or any recreation district, with or without any consideration accruing to the school district, when in the judgment of the board of trustees it is for the interest of such school district that said transfer or conveyance be made. Prior to any transfer or conveyance of any real or personal property pursuant to this paragraph (4) (b), the board shall have the property appraised by an appraiser certified in the state of Idaho, which appraisal shall be entered in the records of the board of trustees and shall be used to establish the value of the real or personal property. Provided however, if the board of trustees finds it is in the school district's best interests to trade personal property to a person or entity for like kind personal property, the board of trustees may vote to elect to do so. The board of trustees may elect to abstain from an appraisal of the personal property if the estimated value of such property is less than five thousand dollars (\$5,000).

(5) To enter into contracts with any city located within the boundaries of the school district for the joint purchase, construction, development, maintenance and equipping of playgrounds, ball parks, swimming pools, and other recreational facilities upon property owned either by the school district or the city.

(6) To convey rights-of-way and easements for highway, public utility, and other purposes over, upon or across any school property and, when nec-

essary to the use of such property for any such purpose, to authorize the removal of school buildings to such new location, or locations, as shall be determined by the board of trustees, and such removal shall be made at no cost or expense to the school district.

(7) To authorize the use of any school building or vacant land of the district as a community center, or for any public purpose, and to establish a policy of charges, if any, to be made for such use.

(8) To exercise the right of eminent domain under the provisions of chapter 7, title 7, Idaho Code, for any of the uses and purposes provided in section 7-701, Idaho Code.

(9) If there is a great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, or if it is necessary to do emergency work to prepare for national or local defense, or it is necessary to do emergency work to safeguard life, health or property, the board of trustees may pass a resolution declaring that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property. Upon adoption of the resolution, the board may expend any sum required in the emergency without compliance with this section.

Approved February 16, 2012.

CHAPTER 16
(S.B. No. 1237)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1002A, IDAHO CODE, TO REVISE THE DEFINITION OF "ONLINE COURSE."

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

SECTION 1. That Section 33-1002A, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002A. FRACTIONAL AVERAGE DAILY ATTENDANCE. (1) Beginning in fiscal year 2013, 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.

Approved February 20, 2012.

CHAPTER 17

(H.B. No. 404, As Amended in the Senate)

AN ACT

RELATING TO THE CAPITOL MALL AND OTHER STATE PROPERTY AND FACILITIES; PROVIDING LEGISLATIVE INTENT; AMENDING CHAPTER 16, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1613, IDAHO CODE, TO PROHIBIT CAMPING ON OR IN CERTAIN STATE PROPERTY AND FACILITIES, TO PROVIDE EXCEPTIONS, TO DEFINE A TERM AND TO PROVIDE FOR AN INFRACTION; AMENDING CHAPTER 16, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1613A, IDAHO CODE, TO PROVIDE PROCEDURES FOR DISPOSITION OF PROPERTY REMOVED FROM PUBLIC PROPERTY FOR VIOLATING A STATUTE THAT FORBIDS A CAMP OR CAMPING; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. LEGISLATIVE INTENT. Whereas, the Capitol Building and the Capitol Mall, as well as other state-owned and leased grounds and facilities, function as the vibrant core of Idaho State Government for Idaho citizens and, as such, require unobstructed grounds and convenient access to ensure the health and safety of all citizens including touring visitors and school children; and, whereas, the state should always strive to maintain the highest aesthetic standards for the grounds of the Capitol Mall, as well as other state-owned and leased grounds and facilities; and, whereas, the Capitol Mall and other state-owned and leased grounds and facilities should have consistent public use guidelines where appropriate with the local government; the Legislature now finds that it is in the best interest of the public health and safety of Idaho citizens to regulate the use of the grounds of the Capitol Mall and other state-owned and leased grounds and facilities in order to prevent the unauthorized use of these grounds and facilities as a temporary or permanent place for camping, lodging or living accommodations.

SECTION 2. That Chapter 16, 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 67-1613, Idaho Code, and to read as follows:

67-1613. CAPITOL MALL AND OTHER STATE PROPERTY AND FACILITIES -- CAMPING PROHIBITED. No person shall camp on or in any state-owned or leased property or facility including, but not limited to, the capitol mall, except those that are designated as a recreational camping ground, area or facility. The provisions of this section shall not apply or affect policies, rules, statutes or leases on endowment lands, department of parks and recreation lands or department of fish and game lands. For the purposes of this section, the term "camp" or "camping" means to use as a temporary or permanent place of dwelling, lodging or living accommodation, and which indicia of camping may include, but are not limited to, storing personal belongings, using tents or other temporary structures for storing personal belongings or for sleeping, carrying on cooking activities, laying out bedding or making any fire. Any person who violates the provisions of this section shall be guilty of an infraction. Such persons shall be required to remove all their personal property from the state-owned or leased property.

SECTION 3. That Chapter 16, 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 67-1613A, Idaho Code, and to read as follows:

67-1613A. DISPOSITION OF PROPERTY. Any property remaining after issuance of a citation or any property left unattended shall be held by the agency or its agent removing the property in a secure location for a period of not less than ninety (90) days. Notice shall be posted and remain at the nearest reasonable location to the place of removal with the agency's or agent's contact information for the ninety (90) day period. If property is not claimed within the ninety (90) day period, the property shall be deemed abandoned and the agency shall have the right to dispose of the property. A reasonable storage fee as determined by the agency may be assessed at the time an owner claims the property. The individual claiming the property shall produce identification and shall sign a release form providing his or her name and contact information and swearing that the property belongs to the claiming party. If the provisions of this section are complied with, the state of Idaho, its agents, employees and contractors shall be immune from legal liability for the administration of this section.

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 February 21, 2012.

CHAPTER 18
(S.B. No. 1213)

AN ACT

RELATING TO PROCEEDINGS IN THE MAGISTRATE'S DIVISION OF THE DISTRICT COURT; AMENDING SECTION 19-3945, IDAHO CODE, TO REVISE PROVISIONS RELATING TO JURORS' AND WITNESSES' FEES AND MILEAGE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 19-3945, Idaho Code, be, and the same is hereby amended to read as follows:

19-3945. JURORS AND WITNESSES -- FEES AND MILEAGE -- APPLICATION FOR SUBPOENAS. Witnesses before examining magistrates a special inquiry judge and in criminal cases in the probate and justice magistrate division of district courts, and jurors, and witnesses in a coroner's inquest, are entitled to four dollars (\$4.00) per day for each day actually engaged in the trial of a case, and twenty-five cents (25¢) per mile, one way the same fees and mileage as provided in section 19-3008, Idaho Code, for witnesses in criminal proceedings in the district court, which must be paid out of the county treasury; provided, however, that when the state or the defendant requires the attendance of more than three (3) witnesses in its or his behalf, before such witnesses shall be subpoenaed at the county expense, or their fees and mileages be a charge against the county, the county attorney or defendant must make affidavit setting forth that they are witnesses whose evidence is material for the state or the defense, and the facts showing such materiality, and that it or he can not safely go to trial without them. In such case or cases, the court or judge thereof, at the time the application is made therefor, shall order a subpoena to issue to such of said witnesses as the court or judge thereof may deem material for the state or defendant, and the costs incurred by the process, and the fees and mileage of such witnesses, shall be paid in the same manner that the costs and fees of other witnesses are paid. Jurors in a coroner's inquest are entitled to the mileage and per diem payments as provided for jurors in section 2-215, Idaho Code.

Approved February 22, 2012.

CHAPTER 19
(S.B. No. 1219)

AN ACT

RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-501, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS; AMENDING SECTION 20-502, IDAHO CODE, TO REVISE DEFINITIONS AND TO REMOVE A DEFINITION; AMENDING SECTION 20-503, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 20-504, IDAHO CODE, TO PROVIDE THE DEPARTMENT OF JUVENILE CORRECTIONS WITH ADDITIONAL DUTIES, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS AND TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 20-504A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO STATE JUVENILE CORRECTIONAL CENTERS, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS AND TO REMOVE A DEFINITION; AMENDING SECTION 20-505, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE APPLICATION OF THE JUVENILE CORRECTIONS ACT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-507, IDAHO

CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 20-508, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-509, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-511, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-511A, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-515, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-516, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO REMOVE LANGUAGE RELATING TO A STATEWIDE JUVENILE OFFENDER INFORMATION SYSTEM; AMENDING SECTION 20-517, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS, TO PROVIDE CORRECT TERMINOLOGY, TO REVISE PROVISIONS RELATING TO DETENTION ACCOMMODATIONS FOR JUVENILE OFFENDERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 20-518, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO REQUIRE THAT JUVENILE DETENTION CENTERS MEET CERTAIN STANDARDS; AMENDING SECTION 20-520, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER, TO REVISE PROVISIONS RELATING TO SENTENCING A JUVENILE OFFENDER AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-521, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 20-522, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-524, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO REMOVE PROVISIONS RELATING TO CHILD SUPPORT ORDERS AND DECREES; AMENDING SECTION 20-524A, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 20-525, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-525A, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-526, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-528, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-530, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS; AMENDING SECTION 20-531, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-532, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-532A, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-533, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 20-533A, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-535, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS; AMENDING SECTION 20-539A, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-542, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS; AMENDING SECTION 20-547, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 20-548, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AND AMENDING SECTION 20-549, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO REVISE PROVISIONS RELATING TO CURFEW VIOLATIONS.

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

SECTION 1. That Section 20-501, Idaho Code, be, and the same is hereby amended to read as follows:

20-501. LEGISLATIVE INTENT. It is the policy of the state of Idaho that the juvenile corrections system will be based on the following principles: accountability; community protection; and competency development. Where a juvenile has been found to be within the purview of the juvenile corrections act, the court shall impose a sentence that will protect the community, hold the juvenile offender accountable for his actions, and assist the juvenile offender in developing skills to become a contributing member of a diverse community. It is the further policy of the state of Idaho that the parents or other legal guardians of the juvenile offender participate in the accomplishment of these goals through participation in counseling and treatment designed to develop positive parenting skills and an understanding of the family's role in the juvenile's offender's behavior. It is the further intent of the legislature that the parents or legal guardians of the juvenile offender be held accountable, where appropriate, through monetary reimbursement for supervision and confinement of the juvenile offender, and restitution to victims of the juvenile's offender's delinquent acts. In enacting this legislation, the legislature finds that the juvenile corrections system should encompass the following aspects: day treatment, community programs, observation and assessment programs, probation services, secure facilities, after-care and assistance to counties for juveniles offenders not committed to the custody of the department of juvenile corrections.

The following is a brief description of what the legislature intends to become the components of Idaho's juvenile corrections system:

Probation. Probation officers would have twenty-four (24) hour on call responsibility for juveniles offenders and would monitor their activities on a continual basis. Probation officers would be responsible for assisting juveniles offenders and their families in accessing counseling or treatment resources, close supervision of juveniles' offenders' activities, supervision of restitution and coordination of other services provided to juveniles offenders. Juvenile offenders ordered into the custody of the department of juvenile corrections would be monitored by a county probation officer.

Day treatment. Day treatment programs would be time limited nonresidential treatment and educational programs. Included in these programs would be trackers who would provide intensive supervision of juveniles offenders through daily contact and by counseling juveniles offenders regarding employment, education, courts, family and life skills. Nonresidential alcohol and drug programs would provide outpatient assessment and counseling for juveniles offenders with substance abuse problems.

Community programs. It is intended that community programs would exist throughout the state to provide twenty-four (24) hour residential supervision and treatment options to juveniles offenders in close proximity to their families and their community. It is intended that these programs would strengthen the juvenile's offender's relationship with family, engender a commitment to school and employment, promote the development of competency and life skills and help juveniles offenders generalize appropriate behavior into their environment.

Observation and assessment. Regional observation and assessment centers would be provided, either directly or on a contract basis, to conduct observation and assessment of the juvenile offender in a short-term residential experience. It is intended that these programs would maintain standardized home and daily routines with intensive daily programming.

Secure facilities. Secure facilities would provide secure confinement, discipline, education and treatment of the most seriously delinquent juveniles offenders. Programs at the secure facilities would be designed to help juveniles offenders recognize accountability for delinquent behavior by confronting and eliminating delinquent norms, criminal thinking and antisocial behavior and making restitution to victims through community service or other restitution programs.

It is the further intent of the legislature that the primary purpose of this act is to provide a continuum of programs which emphasize the juvenile offender's accountability for his actions while assisting him in the development of skills necessary to function effectively and positively in the community in a manner consistent with public safety. These services and programs will individualize treatment and control of the juvenile offender for the benefit of the juvenile offender and the protection of society. It is legislative intent that the department of juvenile corrections be operated within the framework of the following principles to accomplish this mission:

(1) Provide humane, disciplined confinement to a juvenile offender who presents a danger to the community.

(2) Strengthen opportunities for the juvenile's offender's development of competency and life skills by expanding the juvenile's offender's access to applicable programs and community resources.

(3) Hold juveniles offenders accountable for their delinquent behavior through such means as victim restitution, community service programs and the sharing of correctional costs.

(4) Invoke the participation of the juvenile offender's parent or legal guardian in assisting the juvenile offender to recognize and accept responsibility for his delinquent or other antisocial behavior and hold the parent or legal guardian accountable, where appropriate, through the payment of detention costs and restitution to victims and through attendance at programs for the development of positive parenting skills designed to promote a functional relationship between the juvenile offender and his family.

(5) Develop efficient and effective juvenile correctional programs within the framework of professional correctional standards, legislative intent and available resources.

(6) Provide for a diversity of innovative and effective programs through research on delinquent behavior and the continuous evaluation of correctional programs.

(7) Assist counties in developing meaningful programs for juveniles offenders who have come into the juvenile corrections system but who have not been committed to the custody of the department of juvenile corrections.

(8) Provide programs to increase public awareness of the mission of the juvenile corrections system and encourage public participation in developing an effective juvenile corrections system designed to aid in reducing juvenile crime in this state.

(9) Develop and maintain a statewide juvenile offender information system.

SECTION 2. That Section 20-502, Idaho Code, be, and the same is hereby amended to read as follows:

20-502. DEFINITIONS. When used in this chapter, unless the context otherwise requires:

(1) "Adult" means a person eighteen (18) years of age or older.

(2) "Commit" means to transfer legal custody.

(3) "Community-based program" means an in-home confinement program or a nonsecure or staff secure residential or nonresidential program operated to supervise and provide competency development to juvenile offenders in the least restrictive setting, consistent with public safety, operated by the state or under contract with the state or by the county.

(4) "Court" means any district court within the state of Idaho, or magistrate's division thereof.

(5) "Department" means the state department of juvenile corrections.

(6) "Detention" means the temporary placement of juveniles offenders who require secure custody for their own or the community's protection in physically restricting facilities.

(7) ~~"Detention center" means a facility established pursuant to sections 20-517 and 20-518, Idaho Code.~~

(8) "Director" means the director of the department of juvenile corrections.

(98) "Diversion" means the utilization of local community resources, churches, counseling for the juvenile offender and/or family, substance abuse counseling, informal probation, community service work, voluntary restitution, or any other available service or program as an alternative to the filing of a petition with the juvenile court.

(109) "Judge" means a district judge or a magistrate.

(110) "Juvenile" means a person less than eighteen (18) years of age or who was less than eighteen (18) years of age at the time of any alleged act, omission or status ~~bringing the person within the purview of this chapter.~~

(121) "Juvenile corrections correctional center" means any state-operated secure residential facility wherever located or facility operated pursuant to a contract with the state that provides twenty-four (24) hour supervision and confinement for juvenile offenders committed to the custody of the department.

(12) "Juvenile detention center" means a secure facility established pursuant to sections 20-517 and 20-518, Idaho Code, and in compliance with IDAPA 05.01.02.

(13) "Juvenile offender" means a person under the age of eighteen (18), committed by the court to the custody, care and jurisdiction of the department for confinement in a secure or community-based facility following adjudication for a delinquent act which would constitute a felony or misdemeanor if committed by an adult at the time of any act, omission or status and who has been adjudicated as being within the purview of this chapter.

(14) "Legal custody" means the relationship created by the court's decree which imposes upon the custodian responsibilities of physical possession of the juvenile offender, the duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care.

(15) "Legal guardian" means a person appointed as guardian of a minor under the laws of Idaho. For the purposes of this chapter, legal guardian does not include and shall not be construed to include the owner, operator or the agent of an owner or operator of a detention center, observation and assessment center, secure facility, residential facility or other facility having temporary or long-term physical custody of the juvenile offender.

(16) "Observation and assessment program" means any state-operated or purchased service program responsible for temporary custody of juvenile offenders for observation and assessment.

(17) "Secure facility" means any architecturally secure state-operated residential facility or facility operated under contract with the state which that provides twenty-four (24) hour supervision and confinement for juvenile offenders committed to the custody of the department.

(18) "Staff secure facility" means a nonarchitecturally secure residential facility with awake staff twenty-four (24) hours a day, seven (7) days a week for intensive supervision of juveniles offenders.

(19) "Work program" means a public service work project which employs juvenile offenders at a reasonable wage for the purpose of reimbursing victims of the juvenile offender's delinquent behavior.

SECTION 3. That Section 20-503, Idaho Code, be, and the same is hereby amended to read as follows:

20-503. DEPARTMENT OF JUVENILE CORRECTIONS CREATED -- APPOINTMENT OF DIRECTOR -- POWERS AND DUTIES OF DEPARTMENT. (1) The department of juvenile corrections is hereby created. The department shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of the state government.

(2) The department shall be under the control and supervision of a director, who shall be appointed by the governor, with the advice and consent of the senate. The director shall exercise all of the powers and duties necessary to carry out the proper administration of the department and may delegate duties to employees and officers of the department. The director shall have the authority to employ an attorney or attorneys to provide legal services to the department and such managers, assistants, clerical staff and other employees necessary to the proper functioning and administration of the department.

(3) The department of juvenile corrections shall be composed of such administrative units as may be established by the director for the proper and efficient administration of the powers and duties assigned to the director or the department. The director shall appoint an administrator for each administrative unit within the department.

(4) The director shall have full power and authority to do all things necessary to establish and provide for the administration and operation of the department of juvenile corrections and to accomplish an orderly transition to the department of juvenile corrections and the counties of the duties and responsibilities for juvenile offenders and the juvenile justice system being performed by the department of health and welfare. It is intended that the director and staff of the department of health and welfare work cooperatively with the director and staff of the department of juvenile corrections and the counties in this effort, while continuing with their duties to juvenile offenders in the custody of the department of health and welfare until the official transfer of such duties to the department of juvenile corrections and the counties on October 1, 1995.

~~(5) Effective October 1, 1995, all existing commitments to the department of health and welfare made pursuant to section 16-1814(1)6., Idaho Code, are hereby transferred to the department of juvenile corrections. All powers, duties and functions with respect to those commitments are hereby transferred from the department of health and welfare to the department of juvenile corrections. The director of the department of juvenile corrections shall have all the powers and duties as may have been or could have been exercised by his predecessors in law pursuant to these commitments and he shall be the successor in law to those commitment duties without regard to the language of individual judicial orders of commitment for the juveniles.~~

SECTION 4. That Section 20-504, Idaho Code, be, and the same is hereby amended to read as follows:

20-504. DUTIES OF THE DEPARTMENT OF JUVENILE CORRECTIONS. (1) The department shall have jurisdiction over all juveniles offenders committed to it pursuant to chapter 5, title 20, Idaho Code.

(2) The department shall have legal custody over all juvenile offenders committed to it by the courts of this state for confinement. The department shall not have legal guardianship of any juvenile offender.

(3) The department is responsible for all juvenile offenders committed to it by the courts of this state for confinement. The department shall also establish minimum standards for detention, care and certification of approved detention facilities based upon such standards.

(34) The department shall establish and administer all secure residential facilities including all state juvenile ~~corrections~~ correctional centers.

(45) The department shall make all decisions regarding placement of juvenile offenders committed to it in the most appropriate program for supervision and treatment.

(56) The department shall establish an observation and assessment process for juvenile offenders committed to it by a court.

(67) The department shall establish liaison services with the counties or within the department's regions.

(78) The department may establish and operate work programs designed to employ juvenile offenders committed to it in public service work projects for the purpose of reimbursing victims of the juvenile offender's delinquent behavior.

(89) The department is hereby authorized and may place juveniles offenders committed to it pursuant to this chapter in a community-based or private program; provided, that the person, agency or association operating the facility or program has been approved and has otherwise complied with all applicable state and local laws.

(910) The department shall establish minimum standards for the operation of all private residential and nonresidential facilities and programs which that provide services to juvenile offenders committed to the department. The standards shall be no more stringent than standards imposed for facilities operated by the department or for detention facilities operated by counties.

(101) The department shall provide technical assistance to counties establishing research-based programs for juveniles offenders who either have been found to come under the purview of this chapter or who have had their case informally diverted pursuant to section 20-511, Idaho Code, and who have not been committed to the legal custody of the department.

(112) The department shall have authority to adopt such administrative rules pursuant to the procedures provided in chapter 52, title 67, Idaho Code, as are deemed necessary or appropriate for the functioning of the department and the implementation and administration of this act.

(123) Subject to any competitive bidding requirements otherwise provided by law, the department shall have authority to enter into contracts with a private association or organization or other public agency or organization for the inspection and licensure of detention facilities.

(134) Subject to any competitive bidding requirements otherwise provided by law, the department shall have authority to enter into contracts with private providers or local governmental agencies for the confinement or other permanent or temporary placement of juveniles offenders committed to its custody.

(145) The department shall have authority to apply for, receive and expend federal funds, subject to appropriation by the legislature. The department shall have authority to establish guidelines for and administer the distribution of state juvenile corrections act funds to counties for the employment and training of county probation officers, the establishment of secure and nonsecure residential or nonresidential facilities and programs for juvenile offenders. The department may require that a county provide matching funds as a condition of receiving juvenile corrections act funds. The department, by rule, in cooperation with the courts and the counties, shall establish uniform standards for county juvenile probation services, as well as qualifications for and standards for the training of juvenile probation officers.

~~(15) All of the powers and duties imposed upon or granted to the director of the department of health and welfare or the board of health and welfare pursuant to chapter 18, title 16, Idaho Code, are hereby transferred to the director of the department of juvenile corrections. The director shall have all such powers and duties as may have been or could have been exercised by his predecessors in law with respect to chapter 18, title 16, Idaho Code, and shall be the successor in law to all contractual obligations entered into by his predecessor in law.~~

SECTION 5. That Section 20-504A, Idaho Code, be, and the same is hereby amended to read as follows:

20-504A. STATE JUVENILE CORRECTIONS CORRECTIONAL CENTERS -- PURPOSES -- POWERS AND DUTIES OF THE DEPARTMENT AND THE DIRECTOR. (1) The purposes of a juvenile ~~corrections~~ correctional center shall be:

(a) The care, control and competency development of adjudicated juvenile offenders meeting standards for admission as adopted by the Idaho supreme court;

(b) The provision pursuant to agreement with the counties of detention services for juveniles offenders subject to administrative or court order;

(c) The provision of observation and assessment services for juveniles offenders committed to the department of juvenile corrections; and

(d) To accept for placement those individuals sentenced to a state juvenile ~~corrections~~ correctional center by a district court, or pursuant to agreement with the board of correction, subsequent to waiver of juvenile court jurisdiction.

(2) The department shall administer and provide general oversight of all state juvenile ~~corrections~~ correctional centers and any other secure or nonsecure facilities holding juvenile offenders committed to it as required by the juvenile corrections act.

(3) The department shall assure that the educational programs of state juvenile ~~corrections~~ correctional centers are in compliance with educational standards ~~for secure juvenile facilities which that~~ are approved by the Idaho state board of education or an accrediting association recognized by the Idaho state board of education.

(4) The department shall have the power to promulgate rules in accordance with the provisions of chapter 52, title 67, Idaho Code, for the administration and operation of state juvenile ~~corrections~~ correctional centers.

(5) The director shall have the power:

(a) To employ, fix the salary and prescribe the duties of a superintendent for each juvenile ~~corrections~~ correctional center. The superintendent shall be a nonclassified employee and shall serve at the pleasure of the director. With the advice of the director, the superintendent may appoint and prescribe the duties of assistants, instructors, specialists and other employees required for the operation of the center;

(b) To remove any employee of a juvenile ~~corrections~~ correctional center for cause or as allowed by chapter 53, title 67, Idaho Code;

(c) To ensure that all teachers, except specialists, hold teaching certificates issued under the authority of the state board of education which are valid for the grades and subjects taught. All specialists shall hold diplomas from an accredited school of their specialty;

(d) To have, at all times, general supervision and control of all property, real and personal, appertaining to the center, and to insure the same; and

(e) To expend tax moneys appropriated, or otherwise placed to the credit of the center for maintenance and operation and to account for the same as prescribed by law.

~~(6) Wherever the term "State Youth Training Center" or "State Youth Services Center" shall appear in the Idaho Code it shall mean any state juvenile corrections center.~~

SECTION 6. That Section 20-505, Idaho Code, be, and the same is hereby amended to read as follows:

20-505. JURISDICTION. Subject to the prior jurisdiction of the United States, the court shall have exclusive, original jurisdiction over any juve-

nile and over any adult who was a juvenile at the time of any act, omission or status, in the county in which the juvenile resides, or in the county in which the act, omission or status allegedly took place, in the following cases:

(1) Where the act, omission or status occurs in the state of Idaho and is prohibited by federal, state, local or municipal law or ordinance by reason of minority only;

(2) Where the act or omission occurs in the state of Idaho and is a violation of any federal, state, local or municipal law or ordinance which would be a crime if committed by an adult;

(3) Concerning any juvenile where the juvenile comes under the purview of the interstate compact ~~en~~ for juveniles as set forth in chapter 19, title 16, Idaho Code;

(4) This chapter shall not apply to juvenile violators of beer, wine or other alcohol and tobacco laws; except that a juvenile violator under the age of eighteen (18) years at the time of the violation may, at the discretion of the court, be treated under the provisions of this chapter;

(5) This chapter shall not apply to the ~~violent~~ juvenile offenders who are transferred for criminal prosecution as an adult, as defined provided in this chapter;

(6) This chapter shall not apply to juvenile violators of traffic, watercraft, fish and game, failure to obey a misdemeanor citation and criminal contempt laws; except that a juvenile violator under the age of eighteen (18) years at the time of such violation may, at the discretion of the court, be treated under the provisions of this chapter;

(7) This chapter shall not apply to juvenile sex offenders who violate the provisions of section 18-8414, Idaho Code.

SECTION 7. That Section 20-507, Idaho Code, be, and the same is hereby amended to read as follows:

20-507. RETENTION OF JURISDICTION. Jurisdiction obtained by the court in the case of a juvenile offender shall be retained by it for the purposes of this act until he becomes twenty-one (21) years of age, unless terminated prior thereto. If a juvenile offender under the jurisdiction of the court and after attaining eighteen (18) years of age, is charged with a felony, he shall be treated as any other adult offender. If a person eighteen (18) years of age or older already under court jurisdiction is convicted of a felony, that conviction shall terminate the jurisdiction of the court, ~~provided,~~ however, ~~that~~ nothing herein contained shall prohibit any court from proceeding as provided in section 20-508(2), Idaho Code.

SECTION 8. That Section 20-508, Idaho Code, be, and the same is hereby amended to read as follows:

20-508. WAIVER OF JURISDICTION AND TRANSFER TO OTHER COURTS. (1) After the filing of a petition and after full investigation and hearing, the court may waive jurisdiction under the juvenile corrections act over the juvenile and order that the juvenile be held for adult criminal proceedings when:

(a) A juvenile is alleged to have committed any of the crimes enumerated in section 20-509, Idaho Code; or

(b) A juvenile is alleged to have committed an act other than those enumerated in section 20-509, Idaho Code, after the child became fourteen (14) years of age which would be a crime if committed by an adult; or

(c) An adult at the time of the filing of the petition is alleged to have committed an act prior to his having become eighteen (18) years of age which would be a felony if committed by an adult, and the court finds that the adult is not committable to an institution for people with intellectual disabilities or mental illness, is not treatable in any available institution or facility available to the state designed for

the care and treatment of juveniles, or that the safety of the community requires the adult continue under restraint; or

(d) An adult already under the jurisdiction of the court is alleged to have committed a crime while an adult.

(2) A motion to waive jurisdiction under the juvenile corrections act and prosecute a juvenile under the criminal law may be made by the prosecuting attorney, the juvenile, or by motion of the court upon its own initiative. The motion shall be in writing and contain the grounds and reasons in support thereof.

(3) Upon the filing of a motion to waive jurisdiction under the juvenile corrections act, the court shall enter an order setting the motion for hearing at a time and date certain and shall order a full and complete investigation of the circumstances of the alleged offense to be conducted by county probation, or such other agency or investigation officer designated by the court.

(4) Upon setting the time for the hearing upon the motion to waive jurisdiction, the court shall give written notice of said hearing to the juvenile, and the parents, guardian or custodian of the juvenile, and the prosecuting attorney, at least ten (10) days before the date of the hearing, or a lesser period stipulated by the parties, and such notice shall inform the juvenile and the parents, guardian or custodian of the juvenile of their right to court appointed counsel. Service of the notice shall be made in the manner prescribed for service of a summons under section 20-512, Idaho Code.

(5) The hearing upon the motion to waive jurisdiction shall be held in the same manner as an evidentiary hearing upon the original petition and shall be made part of the record.

(6) If as a result of the hearing on the motion to waive jurisdiction the court shall determine that jurisdiction should not be waived, the petition shall be processed in the customary manner as a juvenile corrections act proceeding. However, in the event the court determines, as a result of the hearing, that juvenile corrections act jurisdiction should be waived and the juvenile should be prosecuted under the criminal laws of the state of Idaho, the court shall enter findings of fact and conclusions of law upon which it bases such decision together with a decree waiving juvenile corrections act jurisdiction and binding the juvenile over to the authorities for prosecution under the criminal laws of the state of Idaho.

(7) No motion to waive juvenile corrections act jurisdiction shall be recognized, considered, or heard by the court in the same case once the court has entered an order or decree in that case that said juvenile has come within the purview of the juvenile corrections act, and all subsequent proceedings after the decree finding the juvenile within the purview of the act must be under and pursuant to the act and not as a criminal proceeding.

(8) In considering whether or not to waive juvenile court jurisdiction over the juvenile, the juvenile court shall consider the following factors:

(a) The seriousness of the offense and whether the protection of the community requires isolation of the juvenile beyond that afforded by juvenile facilities;

(b) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(c) Whether the alleged offense was against persons or property, greater weight being given to offenses against persons;

(d) The maturity of the juvenile as determined by considerations of his home, environment, emotional attitude, and pattern of living;

(e) The juvenile's record and previous history of contacts with the juvenile corrections system;

(f) The likelihood that the juvenile will develop competency and life skills to become a contributing member of the community by use of facilities and resources available to the court;

(g) The amount of weight to be given to each of the factors listed in subsection (8) of this section is discretionary with the court, and a determination that the juvenile is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one (1) or a combination of the factors set forth above within this section, which shall be recited in the order of waiver.

(9) If the court does not waive jurisdiction and order a juvenile or adult held for criminal proceedings, the court in a county other than the juvenile's or adult's home county, after entering a decree that the juvenile or adult is within the purview of this chapter, may certify the case for sentencing to the court of the county in which the juvenile offender or adult resides upon being notified that the receiving court is willing to accept transfer. In the event of a transfer, which should be made unless the court finds it contrary to the interest of the juvenile offender or adult, the jurisdiction of the receiving court shall attach to the same extent as if the court had original jurisdiction.

(10) Upon conviction of a juvenile offender held for adult criminal proceedings under this section, the sentencing judge may, if a finding is made that adult sentencing measures would be inappropriate:

(a) Sentence the convicted person in accordance with the juvenile sentencing options set forth in this chapter; or

(b) Sentence the convicted person to the county jail or to the custody of the state board of correction but suspend the sentence or withhold judgment pursuant to section 19-2601, Idaho Code, and commit the defendant to the custody of the department of juvenile corrections for an indeterminate period of time in accordance with section 20-520(1)(r), Idaho Code. The court, in its discretion, may order that the suspended sentence or withheld judgment be conditioned upon the convicted person's full compliance with all reasonable program requirements of the department of juvenile corrections. Such a sentence may also set terms of probation, which may be served under the supervision of county juvenile probation. However, in no event may the total of the actual time spent by the convicted person in the custody of the department plus any adult sentence imposed by the court exceed the maximum period of imprisonment that could be imposed on an adult convicted of the same crime.

(c) If a convicted person is given a suspended sentence or withheld judgment conditioned upon the convicted person's compliance with all reasonable program requirements of the department pursuant to paragraph (b) of this subsection, and if the department reasonably believes that the convicted person is failing to comply with all reasonable program requirements, the department may petition the sentencing court to revoke the commitment to the department and transfer the convicted person to the county jail or to the custody of the state board of correction for the remainder of the sentence.

SECTION 9. That Section 20-509, Idaho Code, be, and the same is hereby amended to read as follows:

20-509. VIOLENT OFFENSES, CONTROLLED SUBSTANCES VIOLATIONS NEAR SCHOOLS AND OFFENDERS. (1) Any juvenile, age fourteen (14) years to age eighteen (18) years, who is alleged to have committed any of the following crimes or any person under age fourteen (14) years who is alleged to have committed any of the following crimes and, pursuant to section 20-508, Idaho Code, has been ordered by the court to be held for adult criminal proceedings:

(a) Murder of any degree or attempted murder;

(b) Robbery;

(c) Rape as defined in section 18-6101, Idaho Code;

(d) Male rape as defined in section 18-6108, Idaho Code;

- (e) Forcible sexual penetration by the use of a foreign object;
- (f) Infamous crimes against nature, committed by force or violence;
- (g) Mayhem;
- (h) Assault or battery with the intent to commit any of the above serious felonies;
- (i) A violation of the provisions of section 37-2732(a)(1)(A), (B) or (C), Idaho Code, when the violation occurred on or within one thousand (1,000) feet of the property of any public or private primary or secondary school, or in those portions of any building, park, stadium or other structure or grounds which were, at the time of the violation, being used for an activity sponsored by or through such a school;
- (j) Arson in the first degree and aggravated arson;

shall be charged, arrested and proceeded against by complaint, indictment or information as an adult. All other felonies or misdemeanors charged in the complaint, indictment or information, which are based on the same act or transaction or on one (1) or more acts or transactions as the violent or controlled substances offense shall similarly be charged, arrested and proceeded against as an adult. Any juvenile proceeded against pursuant to this section shall be accorded all constitutional rights, including bail and trial by jury, and procedural safeguards as if that juvenile were an adult defendant.

(2) Once a juvenile has been formally charged or indicted pursuant to this section or has been transferred for criminal prosecution as an adult pursuant to the waiver provisions of section 20-508, Idaho Code, or this section, the juvenile shall be held in a county jail or other adult prison facility unless the court, after finding good cause, orders otherwise.

(3) Except as otherwise allowed by subsection (4) of this section, once a juvenile offender has been found to have committed the offense for which the juvenile offender was charged, indicted or transferred pursuant to this section or section 20-508, Idaho Code, or has been found guilty or pled guilty to a lesser offense or amended charge growing out of or included within the original charge, whether or not such lesser offense or amended charge is included within the acts enumerated in subsection (1) of this section, the juvenile offender shall thereafter be handled in every respect as an adult. For any subsequent violation of Idaho law, the juvenile offender shall be handled in every respect as an adult.

(4) Upon the conviction of a juvenile offender pursuant to this section, the sentencing judge may, if a finding is made that adult sentencing measures would be inappropriate:

(a) Sentence the convicted person in accordance with the juvenile sentencing options set forth in this chapter; or

(b) Sentence the convicted person to the county jail or to the custody of the state board of correction but suspend the sentence or withhold judgment pursuant to section 19-2601, Idaho Code, and commit the defendant to the custody of the department of juvenile corrections for an indeterminate period of time in accordance with section 20-520(1)(r), Idaho Code. The court, in its discretion, may order that the suspended sentence or withheld judgment be conditioned upon the convicted person's full compliance with all reasonable program requirements of the department of juvenile corrections. Such a sentence may also set terms of probation, which may be served under the supervision of county juvenile probation. However, in no event may the total of the actual time spent by the convicted person in the custody of the department plus any adult sentence imposed by the court exceed the maximum period of imprisonment that could be imposed on an adult convicted of the same crime.

(c) If a convicted person is given a suspended sentence or withheld judgment conditioned upon the convicted person's compliance with all reasonable program requirements of the department pursuant to para-

graph (b) of this subsection, and if the department reasonably believes that the convicted person is failing to comply with all reasonable program requirements, the department may petition the sentencing court to revoke the commitment to the department and transfer the convicted person to the county jail or to the custody of the state board of correction for the remainder of the sentence.

SECTION 10. That Section 20-511, Idaho Code, be, and the same is hereby amended to read as follows:

20-511. DIVERSION OR INFORMAL DISPOSITION OF THE PETITION. (1) Prior to the filing of any petition under this act, the prosecuting attorney may request a preliminary inquiry from the county probation officer to determine whether the interest of the public or the juvenile requires a formal court proceeding. If court action is not required, the prosecuting attorney may utilize the diversion process and refer the case directly to the county probation officer or a community-based diversion program for informal probation and counseling. If community service is going to be utilized pursuant to this subsection, the prosecuting attorney shall collect a fee of sixty cents (60¢) per hour for each hour of community service work the juvenile is going to perform and remit the fee to the state insurance fund for the purpose of securing worker's compensation insurance for the juvenile offender performing community service. However, if a county is self-insured and provides worker's compensation insurance for persons performing community service pursuant to the provisions of this chapter, then remittance to the state insurance fund is not required.

(2) After the petition has been filed and where, at the admission or denial hearing, the juvenile offender admits to the allegations contained in the petition, the court may decide to make an informal adjustment of the petition. Informal adjustment includes, but is not limited to:

- (a) Reprimand of the juvenile offender;
- (b) Informal supervision with the probation department;
- (c) Community service work;
- (d) Restitution to the victim;
- (e) Participation in a community-based diversion program.

(3) Information uniquely identifying the juvenile offender, the offense, and the type of program utilized shall be forwarded to the department. This information shall be maintained by the department in a statewide juvenile offender information system. Access to the information shall be controlled by the department, subject to the provisions of section 9-342, Idaho Code.

Such informal adjustment of the petition shall be conducted in the manner prescribed by the Idaho juvenile rules. When an informal adjustment is made pursuant to this section and the juvenile offender is to perform community service work, the court shall assess the juvenile offender a fee of sixty cents (60¢) per hour for each hour of community service work the juvenile offender is to perform. This fee shall be remitted by the court to the state insurance fund for the purpose of securing worker's compensation insurance for the juvenile offender performing community service. However, if a county is self-insured and provides worker's compensation insurance for persons performing community service pursuant to the provisions of this chapter, then remittance to the state insurance fund is not required.

SECTION 11. That Section 20-511A, Idaho Code, be, and the same is hereby amended to read as follows:

20-511A. MENTAL HEALTH ASSESSMENTS AND PLANS OF TREATMENT. (1) A judge of any court shall order the department of health and welfare to submit appropriate mental health assessments and a plan of treatment for the court's

approval if at any stage of a proceeding under this chapter or the child protective act, chapter 16, title 16, Idaho Code, a judge has reason to believe, based upon the record and proceedings of the court or upon an affidavit of a party, state or county agency or any person having physical custody of the juvenile or juvenile offender, that ~~the juvenile~~ he or she:

(a) Is suffering a substantial increase or persistence of a serious emotional disturbance as defined in section 16-2403, Idaho Code, which impairs his or her ability to comply with the orders and directives of the court, or which presents a risk to ~~the juvenile's~~ his or her safety or well-being or the safety of others; and

(b) Such condition has not been adequately addressed with supportive services and/or corrective measures previously provided to the juvenile, or the juvenile's needs with respect to the serious emotional disturbance are not being met or have not been met.

(2) The court may convene a screening team consisting of representatives from the department of health and welfare, county probation, local school officials, teen early intervention specialists as provided for under section 16-2404A, Idaho Code, the department of juvenile corrections and/or other agencies or persons designated by the court to review the plan of treatment and provide written recommendations to the court. Parents and guardians of the juvenile or juvenile offender, if available, shall be included in the screening team and consulted with regard to the plan of treatment.

(3) If the court, after receiving the mental health assessment and plan of treatment submitted by the department of health and welfare and any recommendations from the screening team, determines that additional information is necessary to determine whether the conditions set forth in subsections (1) (a) and (1) (b) of this section are present, or to determine an appropriate plan of treatment for the juvenile or juvenile offender, the court may order an evaluation and/or recommendations for treatment to be furnished by a psychiatrist, licensed physician or licensed psychologist, with the expenses of such evaluation and/or recommendations to be borne by the department of health and welfare.

(4) If the court concludes that the conditions set forth in subsections (1) (a) and (1) (b) of this section are present, the plan of treatment, as approved by the court, shall be entered into the record as an order of the court. The department of health and welfare shall provide mental health treatment as designated by the approved plan of treatment. If in-patient or residential treatment is required as part of the plan of treatment, the court shall hold a hearing on whether to order such treatment unless the hearing is waived by the juvenile or juvenile offender and ~~the juvenile's~~ his or her parents or guardians. The court may order parents, legal guardians or custodians to adhere to the treatment designated in the plan of treatment. Representatives from the department of health and welfare, county probation, local school officials, teen early intervention specialists as provided for under section 16-2404A, Idaho Code, the department of juvenile corrections and/or other agencies or persons designated by the court shall attend case review hearings as scheduled by the court.

(5) All costs associated with assessment and treatment shall be the responsibility of the parents of the juvenile or juvenile offender according to their ability to pay based upon the sliding fee scale established pursuant to section 16-2433, Idaho Code. The financial obligation of the family shall be determined after consideration of all available payment and funding sources including title XIX of the social security act, as amended, all available third party sources, and parent resources according to any order for child support under chapter 10, title 32, Idaho Code. Services shall not be conditioned upon transfer of custody or parental rights.

SECTION 12. That Section 20-515, Idaho Code, be, and the same is hereby amended to read as follows:

20-515. FAILURE TO OBEY SUMMONS, A CONTEMPT -- WARRANT. If any person summoned as herein provided shall, without reasonable cause, fail to appear, he may be proceeded against for contempt of court. In case the summons cannot be served, or the parties served fail to obey the same, or in any case when it shall be made to appear to the judge that the service will be ineffectual, or that the welfare of the juvenile offender requires that he be brought forthwith into the custody of the court, a warrant or a capias may be issued for the parent, guardian or the juvenile offender.

SECTION 13. That Section 20-516, Idaho Code, be, and the same is hereby amended to read as follows:

20-516. APPREHENSION AND RELEASE OF JUVENILES -- DETENTION. (1) A peace officer may take a juvenile into custody, or a private citizen may detain a juvenile until the juvenile can be delivered forthwith into the custody of a peace officer, without order of the court:

(a) When he has reasonable cause to believe that the juvenile has committed an act which would be a misdemeanor or felony if committed by an adult; or

(b) When in the presence of a peace officer or private citizen the juvenile has violated any local, state or federal law or municipal ordinance; or

(c) When there are reasonable grounds to believe the juvenile has committed a status offense. Status offenses are truancy, running away from or being beyond the control of parents, guardian, or legal custodian and curfew violations. Status offenders shall not be placed in any jail facility but instead may be placed in juvenile shelter care facilities, except in the case of runaways, when there is a specific detention request from a foreign jurisdiction to hold the juvenile pending transportation arrangements.

(2) A peace officer may take a juvenile into custody upon a written order or warrant signed by a judge. The judge may issue the order or warrant after finding that there is reasonable cause to believe that the juvenile comes within the purview of this chapter. Such taking into custody shall not be deemed an arrest. Jurisdiction of the court shall attach from the time the juvenile is taken into custody. When an officer takes a juvenile into custody, he shall notify the parent, guardian or custodian of the juvenile as soon as possible. Unless otherwise ordered by the court, or unless it appears to the officer taking the juvenile into custody that it is contrary to the welfare of society or the juvenile, such juvenile shall be released to the custody of his parent or other responsible adult upon written promise, signed by such person, to bring the juvenile to the court at a stated time. Such written promise shall be submitted to the court as soon as possible. If such person shall fail to produce the juvenile as agreed, or upon notice from the court, a summons for such person may be issued by the court and a warrant may be issued for apprehension of the juvenile.

(3) A juvenile taken into custody may be fingerprinted and photographed. Any fingerprints and photographs taken shall be forwarded as provided in subsection (8) of this section. If the court finds good cause it may order any fingerprints and photographs expunged.

(4) When a juvenile is not released he shall be taken forthwith to the court or place of detention specified by the court and then not later than twenty-four (24) hours, excluding Saturdays, Sundays and holidays, shall be brought before the court for a detention hearing to determine where the juvenile will be placed until the next hearing. Status offenders shall not be

placed in any jail facility, but instead may be placed in juvenile shelter care facilities.

Placements may include, but are not limited to, the following:

- (a) Parents of the juvenile;
- (b) Relatives of the juvenile;
- (c) Foster care;
- (d) Group care;
- (e) A juvenile detention facility center; or
- (f) Community-based diversion programs.

(5) The person in charge of a detention facility center shall give immediate notice to the court that the juvenile is in his custody.

(6) No juvenile shall be held in detention longer than twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays, unless a petition has been filed and the court has signed the detention order.

(7) As soon as a juvenile is detained by court order, his parents, guardian or legal custodian shall be informed by notice in writing on forms prescribed by the court that they may have a prompt hearing regarding release or detention.

(8) A juvenile taken into detention for an offense shall be fingerprinted and photographed. Fingerprints and photographs taken of juveniles shall be forwarded to the appropriate law enforcement agency and filed with the bureau of criminal identification of the Idaho state police which shall create a juvenile offender fingerprint file and enter the fingerprint data into the automated fingerprint identification system. ~~The fingerprint data shall then be forwarded to the department to be maintained in a statewide juvenile offender information system. Access to the information in the juvenile offender system shall be controlled by the department, subject to the provisions of section 9-342, Idaho Code.~~ If the court finds good cause it may order the fingerprints and photographs of the juvenile offender expunged.

(9) Peace officers' records of juveniles shall be kept separate from records of adults and shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 14. That Section 20-517, Idaho Code, be, and the same is hereby amended to read as follows:

20-517. DETENTION ACCOMMODATIONS. (1) The county commissioners shall provide a detention facility center for the detention of juveniles offenders to be conducted by the court, or, subject to the approval of the court, by other appropriate public agency, provided that such detention shall comply with the provisions of section 20-518, Idaho Code; or within the limits of funds provided by the county commissioners ~~the court may arrange for the use of private homes for such detention, subject to the supervision of the court or other agency, or may arrange with any institution or agency to receive for temporary care and custody juveniles within the jurisdiction of the court, provided said private individual or agency facilities, except relatives of the juvenile, shall meet the licensing requirements as provided in this chapter for care of juveniles. Nothing herein shall prevent a jail facility from being utilized as a detention facility if it complies with the provisions of section 20-518, Idaho Code.~~

(2) For the purpose of carrying out the provisions of this section, the county commissioners may enter into contracts or agreements with public or private agencies, individuals, other counties, or the department of juvenile corrections which may include the expenditures of moneys outside the county boundaries. If the county in which the court is located has made an agreement with another governmental unit or agency located outside the county or the judicial district for the detention of juveniles offenders under this act, then any court in the county may order a juvenile offender

detained outside of the county or outside of the judicial district in the detention facility center described in such agreement. All detention centers in this section shall be in compliance with section 20-518, Idaho Code, and IDAPA 11.11.02.

(3) The county wherein any court has entered an order for the detention of a juvenile offender outside of the county or outside of the judicial district as provided by subsection (2) of this section shall pay all direct and indirect costs of the detention of the juvenile offender to the governmental unit or agency owning or operating the detention facility center in which the juvenile offender was detained. The amount of such cost may be determined ~~on a per day per juvenile basis~~ by agreement between the county wherein the court entered the order of detention and the county or governmental unit or agency owning or operating such detention facility center.

(4) All funds moneys appropriated by the state for the planning and design of regional detention facilities centers shall be administered and distributed by the director of the department of administration for the planning and design of regional detention facilities centers in accordance with the requirements or directives of such appropriation. In administering such fund moneys, the director of the department of administration shall consult with the designated county officials of every county involved or affected by a proposed regional detention facility center and shall abide by the decision of the designated representatives of each of the counties so involved or affected.

SECTION 15. That Section 20-518, Idaho Code, be, and the same is hereby amended to read as follows:

20-518. STANDARDS FOR DETENTION. The following shall be minimum standards for the detention of juveniles provided for in section 20-517, Idaho Code:

(1) Juvenile detention facilities centers must be so constructed and/or maintained as to keep juveniles segregated from adult offenders with there to be no contact as to sight and/or sound between the two (2) classes. Those juveniles being treated as adult offenders pursuant to section 20-508 or 20-509, Idaho Code, may be housed in a juvenile detention center if so ordered by the court. Such juveniles may be housed in the general juvenile population without sight and sound separation if it is determined by the detention administration that the safety and security of the other juveniles would not be at risk.

(2) Juvenile detention facilities centers must provide supervision and observation of juveniles sufficient to protect the physical and mental health of the detainees.

(3) Juveniles held in detention must be provided with at least three (3) adequate and nutritional meals per day.

(4) Juveniles held in detention must have access to reading materials on a regular and systematic basis. Detained juveniles may receive eBooks, newspapers and periodicals from any source are including delivery to the detention center by family members, subject to the right of detention authorities to inspect and remove dangerous or harmful materials. Detention authorities may forbid the introduction into holding quarters of obscene books or periodicals.

(5) A visiting program shall be established in juvenile detention facilities centers which will allow for family visits to each juvenile for at least two (2) hours each week.

(6) The juvenile detention facility center shall meet the standards and rules set forth in IDAPA 05.01.02 and IDAPA 11.11.02.

(7) Notwithstanding any other provision in this chapter, the minimum standards set forth herein shall not apply to any person who attains his or her eighteenth birthday prior to beginning or while in detention. When such

person attains his or her eighteenth birthday, he or she shall be transferred from juvenile detention to the county jail.

SECTION 16. That Section 20-520, Idaho Code, be, and the same is hereby amended to read as follows:

20-520. SENTENCING. (1) Upon the entry of an order finding the juvenile offender is within the purview of the act, the court shall then hold a sentencing hearing in the manner prescribed by the Idaho juvenile rules to determine the sentence that will promote accountability, competency development and community protection. Prior to the entry of an order disposing of the case, other than an order of discharge or dismissal, the court may request and, if requested, shall receive a report containing the results of an inquiry into the home environment, past history, competency development, prevention or out of home placement services provided, and the social, physical and mental condition of the juvenile offender. The court shall not consider or review the report prior to the entry of an order of adjudication. Upon presentation and consideration of the report by the court, the court may proceed to sentence the juvenile offender as follows:

(a) Place the juvenile offender on formal probation for a period not to exceed three (3) years from the date of the order, except the court may place a juvenile offender on formal probation for a period not to exceed the juvenile's offender's twenty-first birthday if the court finds that the juvenile offender has committed a crime of a sexual nature;

(b) Sentence the juvenile offender to detention pursuant to this act for a period not to exceed thirty (30) days for each act, omission or status which is prohibited by the federal, state, local or municipal law or ordinance by reason of minority only. The sentence shall not be executed unless the act, omission or status is in violation of section 922(x) of title 18, United States Code, or the court finds that the juvenile offender has violated the court's decree imposing the sentence as provided below.

If the court, after notice and hearing, finds that a juvenile offender has violated the court's decree imposing the sentence under circumstances that bring the violation under the valid court order exception of the federal juvenile justice and delinquency prevention act of 1974, as amended, the court may commit the juvenile offender to detention for the period of detention previously imposed at sentencing;

(c) Commit the juvenile offender to a period of detention, pursuant to this act, for a period of time not to exceed ninety (90) days for each unlawful or criminal act the juvenile offender is found to have committed, if the unlawful or criminal act would be a misdemeanor if committed by an adult, or where the juvenile offender has been adjudicated as an habitual status offender;

(d) If the juvenile offender has committed an unlawful or criminal act which would be a felony if committed by an adult, the court may commit the juvenile offender to detention for a period not to exceed one hundred eighty (180) days for each unlawful or criminal act;

(e) Whenever a court commits a juvenile offender to a period of detention ~~it~~ the juvenile detention center shall notify the school district where the detention facility center is located. No juvenile offender who is found to come within the purview of the act for the commission of a status offense shall be sentenced to detention in a jail facility unless an adjudication has been made that the juvenile offender is an habitual status offender;

(f) Commit the juvenile offender to detention and suspend the sentence on specific probationary conditions;

(g) The court may suspend or restrict the juvenile's offender's driving privileges for such periods of time as the court deems necessary, and

the court may take possession of the juvenile's offender's driver's license. The juvenile offender may request restricted driving privileges during a period of suspension, which the court may allow if the juvenile offender shows by a preponderance of evidence that driving privileges are necessary for his employment or for family health needs;

(h) The court may order that the juvenile offender be examined or treated by a physician, surgeon, psychiatrist or psychologist, or that he receive other special care, or that he submit to an alcohol or drug evaluation, if needed, and for such purposes may place the juvenile offender in a hospital or other suitable facility;

(i) ~~The court may order that the department of health and welfare conduct county probation office authorize~~ a comprehensive substance abuse assessment of the juvenile offender. After receiving the comprehensive substance abuse assessment, and upon a finding by the court that treatment will provide a cost-effective means of achieving the sentencing goals of accountability, competency development and community protection, the court may order that the juvenile offender receive immediate treatment for substance abuse in keeping with a plan of treatment approved by the court. The initial cost of the assessment and treatment shall be borne by the department of ~~health and welfare~~ juvenile corrections with funds allocated to the county probation office. The director of the department of ~~health and welfare~~ juvenile corrections may promulgate rules consistent with this paragraph ~~(i)~~ to establish a schedule of fees to be charged to parents by the ~~department of health and welfare~~ county probation office for such services based upon the cost of the services and the ability of parents to pay;

(j) In support of an order under the provisions of this section, the court may make an additional order setting forth reasonable conditions to be complied with by the parents, the juvenile offender, his legal guardian or custodian, or any other person who has been made a party to the proceedings, including, but not limited to, restrictions on visitation by the parents or one (1) parent, restrictions on the juvenile's offender's associates, occupation and other activities, and requirements to be observed by the parents, guardian or custodian;

(k) The court may make any other reasonable order which is in the best interest of the juvenile offender or is required for the protection of the public, except that no person under the age of eighteen (18) years may be committed to jail, prison or a secure facility which does not meet the standards set forth in section 20-518, Idaho Code, unless jurisdiction over the individual is in the process of being waived or has been waived pursuant to section 20-508 or 20-509, Idaho Code. The court may combine several of the above-listed modes of disposition where they are compatible;

(l) An order under the provisions of this section for probation or placement of a juvenile offender with an individual or an agency may provide a schedule for review of the case by the court;

(m) Order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 16, title 16, Idaho Code;

(n) Order the case and all documents and records connected therewith transferred to the magistrate division of the district court for the county where the juvenile offender and/or parents reside if different than the county where the juvenile offender was charged and found to have committed the unlawful or criminal act, for the entry of a dispositional order;

(o) Order such other terms, conditions, care or treatment as appears to the court will best serve the interests of the juvenile offender and the community;

(p) The court shall assess a twenty dollar (\$20.00) detention/probation training academy fee against the juvenile offender for every

petition filed where there has been an adjudication that the juvenile offender is within the purview of this chapter. All moneys raised pursuant to this paragraph shall be transmitted by the court for deposit in the juvenile corrections fund which is created in section 20-542, Idaho Code;

(q) Additionally, the court shall assess a fee of sixty cents (60¢) per hour of community service against the juvenile offender for every petition filed where there has been an adjudication that the juvenile offender is within the purview of this chapter and the court is ordering community service. Such fee is to be remitted by the court to the state insurance fund for purposes of providing worker's compensation insurance for persons performing community service pursuant to this chapter. However, if a county is self-insured and provides worker's compensation insurance for persons performing community service pursuant to the provisions of this chapter, then remittance to the state insurance fund is not required;

(r) Commit the juvenile offender to the legal custody of the department of juvenile corrections for an indeterminate period of time not to exceed the juvenile's offender's nineteenth birthday, unless the custody review board determines that extended time in custody is necessary to address competency development, accountability, and community protection; provided however, that no juvenile offender shall remain in the custody of the department beyond the juvenile's offender's twenty-first birthday. The department shall adopt rules implementing the custody review board and operations and procedures of such board;

(s) Notwithstanding any other provision of this section, a court may not commit a juvenile offender under the age of ten (10) years to a period of detention or to the custody of the department of juvenile corrections for placement in secure confinement.

(2) When an order is entered pursuant to this section, the juvenile offender shall be transported to the facility or program so designated by the court or the department, as applicable, by the sheriff of the county where the juvenile offender resides or is committed, or by an appointed agent. When committing a juvenile offender to the department, or another entity, the court shall at once forward to the department or entity a certified copy of the order of commitment.

(3) Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order the juvenile offender or his parents or both to pay restitution to or make whole any victim who suffers an economic loss as a result of the juvenile's offender's conduct in accordance with the standards and requirements of sections 19-5304 and 19-5305, Idaho Code. The amount of restitution which may be ordered by the court shall not be subject to the limitations of section 6-210, Idaho Code. Court-ordered restitution shall be paid prior to any other court-ordered payments unless the court specifically orders otherwise. The clerk of the district court, with the approval of the administrative district judge, may use the procedures set forth in section 19-4708, Idaho Code, for the collection of the restitution.

(4) The court may order the juvenile's offender's parents, legal guardian or custodian to pay the charges imposed by community programs ordered by the court for the juvenile offender, or the juvenile's offender's parents, legal guardian or custodian.

(5) Any parent, legal guardian or custodian violating any order of the court entered against the person under the provisions of this chapter shall be subject to contempt proceedings under the provisions of chapter 6, title 7, Idaho Code.

SECTION 17. That Section 20-521, Idaho Code, be, and the same is hereby amended to read as follows:

20-521. HABITUAL STATUS OFFENDER. (1) Any juvenile offender who has been adjudicated for commission of two (2) status offenses within twelve (12) months may be charged, petitioned and adjudicated as an habitual status offender for the third status offense committed within that twelve (12) month period.

(2) The court may utilize any dispositional alternative for an habitual status offender that is detailed in section 20-520, Idaho Code, except that the juvenile offender shall not be placed in the an Idaho juvenile ~~corrections~~ correctional center.

SECTION 18. That Section 20-522, Idaho Code, be, and the same is hereby amended to read as follows:

20-522. JURISDICTION OVER PARENTS. Whenever a juvenile offender is found to come under the purview of this chapter, the court shall have jurisdiction and authority to have the juvenile offender and the juvenile's offender's parent(s), legal guardian or custodian sign a probationary contract with the court containing terms and conditions that the juvenile offender and the juvenile's offender's parent(s), legal guardian or custodian must adhere to as a condition of the juvenile's offender's probation. The probationary contract may provide that upon a violation or breach of the terms and conditions of the probationary contract, the juvenile's offender's parent(s), legal guardian or custodian shall be liable to the court for a specific monetary sum not in excess of one thousand dollars (\$1,000) for the breach of contract. All such moneys shall be payable to the court and shall be in addition to any other fines, penalties or other sanctions provided by law. Any moneys received by the court pursuant to this section shall be paid into the juvenile corrections fund created in section 20-542, Idaho Code. In lieu of or in addition to a monetary payment, the court may order that the parent(s), legal guardian or custodian attend parenting classes or undergo other treatment or counseling. Any person violating any order of the court entered under the provisions of this section shall be subject to contempt proceedings under the provisions of chapter 6, title 7, Idaho Code.

SECTION 19. That Section 20-524, Idaho Code, be, and the same is hereby amended to read as follows:

20-524. SUPPORT OF JUVENILE OR JUVENILE OFFENDER -- REIMBURSEMENT FOR COSTS INCURRED. (1) Whenever a juvenile or juvenile offender is placed by the court in custody other than that of ~~the juvenile's~~ his or her parents, guardian or custodian, after due notice to the parent, guardian or other persons legally obligated to care for and support the juvenile or juvenile offender, and after a hearing, the court may order and decree that the parent or other legally obligated person shall pay in such a manner as the court may direct a reasonable sum that will cover in whole or in part the support and treatment of the juvenile or juvenile offender. If the parent or other legally obligated person willfully fails or refuses to pay such sum, the court may proceed against him for contempt, or the order may be filed and shall have the effect of a civil judgment.

(2) If the juvenile or juvenile offender is detained, the court may order that the parents or other legal guardian of the juvenile or juvenile offender contribute to the costs of detention in an amount to be set by the court. The order may be filed and shall have the effect of a civil judgment. It is the intent of the legislature that foster parents or a parent or legal guardian receiving public assistance relating to that juvenile or juvenile

offender should not benefit from the continued receipt of payments or public assistance from any state or federal agency while the juvenile or juvenile offender is detained. The department of health and welfare is directed to promulgate a rule implementing this intent.

~~(3) All child support orders shall notify the obligor that the order will be enforced by income withholding pursuant to chapter 12, title 32, Idaho Code.~~

~~(4) Failure to include these provisions does not affect the validity of the support order or decree. The court shall require that the social security numbers of both the obligor and obligee be included in the order or decree.~~

SECTION 20. That Section 20-524A, Idaho Code, be, and the same is hereby amended to read as follows:

20-524A. DEPARTMENT'S PAYMENT OF DETENTION COSTS. If the juvenile offender is committed to the custody of the department of juvenile corrections pursuant to chapter 5, title 20, Idaho Code, the department shall reimburse the county for the period of time in excess of five (5) calendar days during which the juvenile offender is housed at a detention facility center. This time period shall begin to run on the first business day the department receives a copy of the order of commitment, executed by the court. Orders received by the department after 3 o'clock p.m., mountain standard time, on a business day, will be considered to have been received the next business day. Facsimile transmissions of the order are acceptable.

SECTION 21. That Section 20-525, Idaho Code, be, and the same is hereby amended to read as follows:

20-525. RECORDS -- PRIVILEGED INFORMATION. (1) The court shall maintain records of all cases brought before it. In proceedings under this act the following juvenile courtroom proceedings and records shall be open to the public: all proceedings against a juvenile offender of the age of fourteen (14) years or older and who is petitioned or charged with an offense which would be a felony if committed by an adult including the court docket, petitions, complaints, information, arraignments, trials, sentencings, probation violation hearings and dispositions, motions and other papers filed in any case in any district; transcripts of testimony taken by the court; and findings, verdicts, judgments, orders, decrees and other papers filed in proceedings before the court of any district.

(2) Juvenile courtroom proceedings and records shall remain confidential when the court and the prosecutor agree extraordinary circumstances exist that justify records of a juvenile offender of the age of fourteen (14) years or older and who is petitioned or charged with an offense which would be a felony if committed by an adult should remain confidential because it is in the best interest of the juvenile offender.

(3) In proceedings under this act the following records and court proceedings of juveniles offenders of the age of thirteen (13) years or younger shall not be withheld from public inspection, except on court order, which order must be made in writing in each case: the court docket, petitions, complaints, information, arraignments, trials, sentencings, probation violation hearings and dispositions, motions and other papers filed in any case in any district; transcripts of testimony taken by the court; and findings, verdicts, judgments, orders, decrees and other papers filed in proceedings before the court of any district.

(4) These records shall be open to inspection according to chapter 3, title 9, Idaho Code. All information obtained and social records prepared in the discharge of official duty by an employee of the court shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

(5) The victim of misconduct shall always be entitled to the name of the juvenile offender involved, the name of the juvenile's offender's parents or guardian, and their addresses and telephone numbers, if available in the records of the court.

(6) Notwithstanding the other provisions of this act and notwithstanding any order entered pursuant hereto, nothing in this act shall prohibit the exchange of records created pursuant to this act between prosecuting attorneys or courts in this state.

SECTION 22. That Section 20-525A, Idaho Code, be, and the same is hereby amended to read as follows:

20-525A. EXPUNGEMENT OF RECORD -- HEARING -- FINDINGS NECESSARY -- SPECIAL INDEX -- EFFECT OF ORDER. (1) Any person who has been adjudicated in a case under this act and found to be within the purview of the act for having committed a felony offense or having been committed to the department of juvenile corrections may, after the expiration of five (5) years from the date of termination of the continuing jurisdiction of the court, or, in case the juvenile offender was committed to the juvenile ~~corrections~~ correctional center, five (5) years from the date of his release from the juvenile ~~corrections~~ correctional center, or after reaching age eighteen (18) years, whichever occurs last, petition the court for the expungement of his record. Upon the filing of the petition, the court shall set a date for a hearing and shall notify the prosecuting attorney of the pendency of the petition and of the date of the hearing. The prosecuting attorney and any other person who may have relevant information about the petitioner may testify at the hearing.

(2) Any person who has been adjudicated in a case under this act and found to be within the purview of the act for having committed misdemeanor or status offenses only and not having been committed to the department of juvenile corrections may, after the expiration of one (1) year from the date of termination of the continuing jurisdiction of the court or after reaching age eighteen (18) years, whichever occurs later, petition the court for the expungement of his record. Upon the filing of the petition, the court shall set a date for a hearing and shall notify the prosecuting attorney of the pendency of the petition and the date of the hearing. The prosecuting attorney and any other person who may have relevant information about the petitioner may testify at the hearing.

(3) In any case where the prosecuting attorney has elected to utilize the diversion process or the court orders an informal adjustment pursuant to section 20-511, Idaho Code, the person may, after the expiration of one (1) year from the date of termination of the continuing jurisdiction of the court or after reaching age eighteen (18) years, whichever occurs later, petition the court for the expungement of his record. Upon the filing of the petition, the court shall set a date for a hearing and shall notify the prosecuting attorney of the pendency of the petition and the date of the hearing. The prosecuting attorney and any other person who may have relevant information about the petitioner may testify at the hearing.

(4) The court may not expunge a conviction for any of the following crimes from a juvenile's offender's record:

- (a) Administering poison with intent to kill (18-4014, Idaho Code);
- (b) Aggravated battery (18-907, Idaho Code);
- (c) Armed robbery (chapter 65, title 18, Idaho Code);
- (d) Arson (chapter 8, title 18, Idaho Code);
- (e) Assault with intent to commit a serious felony (18-909, Idaho Code);
- (f) Assault with intent to murder (18-4015, Idaho Code);
- (g) Assault or battery upon certain personnel, felony (18-915, Idaho Code);

- (h) Forcible sexual penetration by use of a foreign object (18-6608, Idaho Code);
- (i) Infamous crime against nature, committed by force or violence (18-6605, Idaho Code);
- (j) Injury to child, felony (18-1501, Idaho Code);
- (k) Kidnapping (18-4501, Idaho Code);
- (l) Murder of any degree (18-4001 and 18-4003, Idaho Code);
- (m) Rape, excluding statutory rape (18-6101 and 18-6108, Idaho Code);
- (n) Ritualized abuse of a child (18-1506A, Idaho Code);
- (o) Sexual exploitation of a child (18-1507, Idaho Code);
- (p) Unlawful use of destructive device or bomb (18-3320, Idaho Code);
- (q) Voluntary manslaughter (18-4006 1., Idaho Code);
- (r) A violation of the provisions of section 37-2732(a)(1)(A), (B) or (C), Idaho Code, when the violation occurred on or within one thousand (1,000) feet of the property of any public or private primary or secondary school, or in those portions of any building, park, stadium or other structure or grounds which were, at the time of the violation, being used for an activity sponsored by or through such a school;
- (s) A violation of the provisions of section 37-2732B, Idaho Code, related to drug trafficking or manufacturing of illegal drugs.

(5) If the court finds after hearing that the petitioner has not been adjudicated as a juvenile offender for any of the crimes identified in subsection (4) of this section, and has not been convicted of a felony, or of a misdemeanor wherein violence toward another person was attempted or committed since the termination of the court's jurisdiction or his release from the juvenile ~~corrections~~ correctional center, and that no proceeding involving such felony or misdemeanor is pending or being instituted against him, and if the court further finds to its satisfaction that the petitioner has been held accountable, is developing life skills necessary to become a contributing member of the community and that the expungement of the petitioner's record will not compromise public safety, it shall order all records in the petitioner's case in the custody of the court and all such records, including law enforcement investigatory reports and fingerprint records, in the custody of any other agency or official sealed; and shall further order all references to said adjudication, diversion or informal adjustment removed from all indices and from all other records available to the public. However, a special index of the expungement proceedings and records shall be kept by the court ordering expungement, which index shall not be available to the public and shall be revealed only upon order of a court of competent jurisdiction. Copies of the order shall be sent to each agency or official named in the order. Upon the entry of the order the proceedings in the petitioner's case shall be deemed never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter. Inspection of the records may thereafter be permitted only by the court upon petition by the person who is the subject of the records or by any other court of competent jurisdiction, and only to persons named in the petition.

SECTION 23. That Section 20-526, Idaho Code, be, and the same is hereby amended to read as follows:

20-526. ENCOURAGING VIOLATIONS. Any person who by any act or neglect encourages, aids or causes a juvenile to come within the purview or jurisdiction of this chapter, or who after notice that the driving privileges of the juvenile offender have been suspended or restricted under the provisions of this chapter knowingly permits or encourages said juvenile offender to operate a motor vehicle in violation of such suspension or restriction, shall be guilty of a misdemeanor. The court may impose conditions upon any person found guilty under this section, and so long as such person shall comply

therewith to the satisfaction of the court, the sentence imposed may be suspended.

SECTION 24. That Section 20-528, Idaho Code, be, and the same is hereby amended to read as follows:

20-528. APPEALS. All orders or final judgments made by any court in matters affecting a juvenile offender within the purview of this act may be appealed by the juvenile offender or the state. A decision by the court pursuant to section 20-508, Idaho Code, not to waive jurisdiction under this act over the juvenile offender may be appealed by the state. Appeals shall be reviewed as provided by the appellate rules of the supreme court of Idaho, except no undertaking shall be required. Upon filing of the notice of appeal, the district court shall take jurisdiction of the case and if the juvenile offender is in detention shall promptly hold a hearing after the filing of a request to determine whether the juvenile offender shall remain in detention.

SECTION 25. That Section 20-530, Idaho Code, be, and the same is hereby amended to read as follows:

20-530. REASSESSMENT OF COMMITTED JUVENILES OFFENDERS -- RECORDS -- FAILURE TO REASSESS. (1) The department shall make periodic reassessments of all juveniles offenders committed to it for the purpose of determining whether existing orders and dispositions in individual cases should be modified or continued in force. Assessments may be made as frequently as the department considers desirable and shall be made with respect to every juvenile offender at intervals not exceeding one (1) year. Reports of periodic reassessments made pursuant to this section shall be filed with the court from which the juvenile offender was committed.

(2) The department shall keep written records of assessments, prognosis, and all orders concerning disposition or treatment of every juvenile offender committed to it.

(3) Failure of the department to assess a committed juvenile offender or to reassess him within one (1) year of a previous assessment shall not of itself entitle the juvenile offender to discharge from the control of the department but shall entitle him to petition the committing court for an order of discharge and the court shall discharge him unless the department satisfies the court of the need for further control.

SECTION 26. That Section 20-531, Idaho Code, be, and the same is hereby amended to read as follows:

20-531. SECURE FACILITIES. (1) The department shall maintain and operate secure facilities for the custody of juvenile offenders who pose a danger of serious bodily harm to others or who have engaged in a pattern of serious criminal offenses, and who cannot be controlled in a less secure setting.

(2) The department shall provide or make available to juvenile offenders in secure facilities, instruction appropriate to the age, needs and range of abilities of the juveniles offenders. An assessment shall be made of each juvenile offender at the secure facility to determine abilities, learning disabilities, interests, attitudes and similar matters. Training in the development of competency and life skills designed to assist the juvenile offender in operating effectively within and becoming a contributing member of the community shall be provided. Prevocational education shall be provided to acquaint juvenile offenders with vocations, their requirements and opportunities.

(3) The department shall place juvenile offenders committed to the department in a state or privately operated secure facility that provides hu-

mane care and developmental opportunities for the juvenile offender while promoting accountability and community protection.

(4) The department shall adopt standards, policies and procedures for the regulation and operation of secure facilities. Such standards, policies and procedures shall not be inconsistent with law. Policies shall be promulgated as rules in compliance with chapter 52, title 67, Idaho Code.

SECTION 27. That Section 20-532, Idaho Code, be, and the same is hereby amended to read as follows:

20-532. TERM OF COMMITMENT -- REVIEW AFTER COMMITMENT. A juvenile offender committed to a secure facility shall remain until the juvenile offender reaches nineteen (19) years of age, is retained for extended custody pursuant to section 20-520(1)(r), Idaho Code, or is released or discharged. A juvenile offender committed to a secure facility shall appear before the department within ninety (90) days after commitment, for review of treatment plans.

SECTION 28. That Section 20-532A, Idaho Code, be, and the same is hereby amended to read as follows:

20-532A. ORDER FOR APPREHENSION AND DETENTION OF ESCAPEES FROM CUSTODY. Upon a finding by the Idaho department of juvenile corrections that a juvenile offender in the custody of the department has escaped from custody, a written order signed by the director or his designee shall be a sufficient order for detention for any law enforcement officer to apprehend and take into custody such person. It is hereby made the duty of all sheriffs, police, constables, parole officers, prison officials and other peace officers, to execute such order. From and after the issuance of the detention order and until taken into custody, the escapee shall be considered a fugitive from justice. Upon apprehension, the juvenile offender shall be detained in the closest available detention center and shall thereafter be transported by the department as soon as possible or, at the discretion of the detaining authority, the juvenile offender may be transported directly by that authority to the department's nearest regional facility.

SECTION 29. That Section 20-533, Idaho Code, be, and the same is hereby amended to read as follows:

20-533. RELEASE FROM CUSTODY OF THE DEPARTMENT. (1) The department shall determine an appropriate date for release of the juvenile offender from the custody of the department, based upon guidelines established by the department. The department shall review and update policy guidelines annually.

(2) Juvenile offenders may be released to their own home, to a residential ~~community-based~~ community-based program, to a nonresidential ~~community-based~~ community-based treatment program, to an approved independent living setting, or to other appropriate residences, but shall remain on probation until the probation is terminated by the court. Following the release of a juvenile offender, the court may conduct a hearing to review the juvenile's offender's conditions of probation and determine whether existing conditions should be amended or eliminated or additional conditions imposed.

(3) County probation officers shall enforce probation conditions and supervise juvenile offenders while on probation. As authorized by court order, probation officers may establish additional reasonable conditions of probation with which the juvenile offender must comply. The juvenile offender may move for a hearing before the court to contest any conditions imposed by the probation officer. If the probation officer establishes additional conditions of probation, the probation officer shall advise the

juvenile offender at the time such additional conditions are imposed of the juvenile's offender's right to move the court for a hearing to contest those conditions.

(4) When the department is considering release of a juvenile offender committed to the department for confinement, the department shall notify the prosecuting attorney of the county from which the juvenile offender was committed to confinement, the judge whose order caused the juvenile offender to be committed to confinement and the victims of the juvenile offender's unlawful conduct.

SECTION 30. That Section 20-533A, Idaho Code, be, and the same is hereby amended to read as follows:

20-533A. COMPLIANCE WITH OPEN MEETING LAW -- EXECUTIVE SESSIONS AUTHORIZED -- CONFIDENTIALITY OF RECORDS. (1) All meetings of the custody review board of the Idaho department of juvenile corrections shall be held in accordance with the open meeting law as provided in chapter 23, title 67, Idaho Code, provided however:

(a) Deliberations and decisions of the board concerning whether or not a juvenile offender shall be held in custody of the Idaho department of juvenile corrections for an extended period of time past his or her nineteenth birthday may be made in executive session; and

(b) Votes of individual members in custody decisions shall not be made public, provided that the board shall maintain a record of the votes of the individual members as required in subsection (2) of this section.

(2) A written record of the vote to retain the juvenile offender in custody for an extended period of time by each board member in each case reviewed by that member shall be produced by the board. Such record shall be kept confidential and privileged from disclosure, provided the record shall be made available upon request to the governor, the chairman of the senate judiciary and rules committee and the chairman of the house of representatives judiciary, rules and administration committee for all lawful purposes.

(3) A board member or employee of the Idaho department of juvenile corrections who distributes to any person not specifically listed in this section any hearing information or records that are legally required to be kept confidential shall be guilty of a misdemeanor.

(4) Nothing contained in this section shall prevent any person from obtaining the results of any action by the board or director of the Idaho department of juvenile corrections without reference to the manner in which any member voted, and the board shall make such information public unless doing so would violate public records laws.

(5) Nothing contained in this section shall prevent the director, designated staff of the director, the governor, the chairman of the senate judiciary and rules committee or the chairman of the house of representatives judiciary, rules and administration committee from attending any meeting, including any executive session, of the custody review board.

SECTION 31. That Section 20-535, Idaho Code, be, and the same is hereby amended to read as follows:

20-535. REVIEW OF PROGRAMS FOR JUVENILES OFFENDERS -- CERTIFICATION. The department shall annually review all state operated or state contracted programs which provide services to juvenile offenders and certify compliance with standards provided by the department. Written reviews shall be provided to the managers of those programs. Based upon policies established by the department, those programs which are unable or unwilling to comply with approved standards may not be certified. Any person owning or operating a private facility who willfully fails to comply with the standards established by the department shall be guilty of a misdemeanor.

SECTION 32. That Section 20-539A, Idaho Code, be, and the same is hereby amended to read as follows:

20-539A. DISTRIBUTION AND REPORTING REQUIREMENTS FOR STATE, OTHER PUBLIC AND PRIVATE CONTRACT FACILITIES. Each facility housing juvenile offenders in department custody, whether a state, other public or private contract facility, shall comply with the following requirements for disbursement and reporting:

(1) State facilities, upon receiving any moneys credited to a juvenile offender in its custody, shall deposit the funds in the juvenile corrections victim restitution fund pursuant to section 20-539, Idaho Code.

(2) Other public or private contract facilities housing juveniles offenders in department custody, upon receiving any moneys credited to or earned by a juvenile offender at the facility, shall directly distribute the moneys on or before the first day of each calendar quarter to the county court that committed the juvenile offender to department custody. Upon remitting moneys to a county on behalf of a juvenile offender, the facility shall report the direct distribution to the department for inclusion in the department's records.

SECTION 33. That Section 20-542, Idaho Code, be, and the same is hereby amended to read as follows:

20-542. JUVENILE CORRECTIONS FUND -- CREATION. There is hereby created in the state treasury, the juvenile corrections fund. Moneys in the fund shall be utilized by the department for construction and administration of facilities under the jurisdiction of the department of juvenile corrections, for assistance to a county or series of counties in constructing, contracting for or administering detention facilities for juveniles offenders, to coordinate training for juvenile detention officers and/or juvenile probation officers, and for alternative programs designed to help juveniles avoid the traditional juvenile corrections system. All moneys in the fund may be expended only pursuant to appropriation by the legislature.

SECTION 34. That Section 20-547, Idaho Code, be, and the same is hereby amended to read as follows:

20-547. CONSTRUCTION OF ACT -- CITATION OF ACT -- OTHER CODE REFERENCES CONSTRUED. This act shall be liberally construed to the end that the legislative policy expressed herein is achieved. This act may be cited as the "Juvenile Corrections Act of 1995." ~~On and after the effective date of this act, any citation in the Idaho Code to chapter 18, title 16, Idaho Code, shall be understood and construed as a citation to chapter 5, title 20, Idaho Code, unless the context otherwise requires.~~

SECTION 35. That Section 20-548, Idaho Code, be, and the same is hereby amended to read as follows:

20-548. COMPENSATION -- AMOUNT -- CREDITING ACCOUNT OF JUVENILE OFFENDER -- JUVENILES OFFENDERS NOT EMPLOYEES. Each juvenile offender who is engaged in productive work under the jurisdiction of the director of the department of juvenile corrections may receive for this work such compensation as the director shall determine, to be paid out of any funds available in the department of juvenile corrections competency development account. After payment of restitution pursuant to section 20-538, Idaho Code, compensation shall be credited to the account of the juvenile offender to be used for payment of fines, reimbursement to the department of juvenile corrections for expenses directly related to that juvenile offender, and

upon certain circumstances, payment to the juvenile offender upon release from the department of juvenile corrections.

No juvenile offender compensated under this act shall be considered an employee of the state or the department of juvenile corrections, nor shall any juvenile offender come within any of the provisions of the worker's compensation law, or be entitled to any benefits thereunder whether on behalf of himself or any other person.

SECTION 36. That Section 20-549, Idaho Code, be, and the same is hereby amended to read as follows:

20-549. CURFEW VIOLATIONS -- CITATION -- NOTIFICATION. Violation by a juvenile offender of a curfew established by a municipal or county ordinance shall be punishable by a fine not to exceed three hundred dollars (\$300), detention, or both. Fines shall be deposited in the county juvenile justice fund of the county where the violation occurred, or if such a fund has not been established, then in the current county expense account for juvenile corrections purposes in the county where the violation occurred. The imposition of detention shall be subject to the provisions of sections 20-520(1)(bc) and 20-521, Idaho Code. Detention of a juvenile offender in a county jail or detention center for violation of a curfew is prohibited, unless the juvenile offender is an habitual status offender as defined in section 20-521, Idaho Code.

Any peace officer may issue a citation for violation of a curfew that shall thereafter proceed under the juvenile corrections act in the same manner as though the violation was charged by a petition. Citations shall be issued on the Idaho uniform citation form. The peace officer issuing a curfew citation may detain the violator and at the time the citation is issued shall make a reasonable effort to obtain the endorsement of the juvenile's parent or legal guardian on the citation. If the endorsement of a parent or legal guardian cannot be obtained with the exercise of reasonable diligence, a copy of the citation shall be hand delivered or mailed to the juvenile's parent or legal guardian by a peace officer at least seven (7) days prior to the date set for the juvenile's appearance. The citation shall provide a date certain for the appearance before a magistrate of the juvenile and parent or legal guardian.

When sentencing a juvenile offender for violating a curfew, the court may also enter any order authorized in section 20-520, Idaho Code. The court shall have jurisdiction over the parent or legal guardian of the violator pursuant to section 20-522, Idaho Code.

Approved February 22, 2012.

CHAPTER 20
(S.B. No. 1222)

AN ACT

RELATING TO JUDGES; AMENDING SECTION 5-306, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 7-602, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-4309, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-4907, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 19-224, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 19-227, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-503, IDAHO CODE, TO PROVIDE THAT THE JUDGES OF THE

COURT OF APPEALS ARE MAGISTRATES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-512, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 19-3006, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE CORRECT TERMINOLOGY; REPEALING SECTION 19-3009, IDAHO CODE, RELATING TO THE COMPULSORY ATTENDANCE OF WITNESSES; AMENDING SECTION 19-3602, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 19-3903, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 19-3904, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 19-4304, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 19-4407, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 32-401, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 32-402, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 35-106, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 38-804, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 38-805, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-258, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 48-406, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-702, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 55-717, IDAHO CODE, RELATING TO A CERTIFICATE OF JUSTICE AND AUTHENTICATION; AMENDING SECTION 55-1101, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE CORRECT TERMINOLOGY; AND AMENDING SECTION 55-1103, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 5-306, Idaho Code, be, and the same is hereby amended to read as follows:

5-306. INFANTS AND INSANE PERSONS -- GUARDIANS AD LITEM. When an infant or an insane or incompetent person is a party, he must appear either by his general guardian or by a guardian ad litem appointed by the court in which the action is pending in each case, ~~or by a judge thereof, or a probate judge.~~ A guardian ad litem may be appointed in any case when it is deemed by the court in which the action or proceeding is prosecuted, or by a judge thereof, expedient, to represent the infant, insane or incompetent person in the action or proceeding, notwithstanding he may have a general guardian and may have appeared by him.

SECTION 2. That Section 7-602, Idaho Code, be, and the same is hereby amended to read as follows:

7-602. REENTRY OF DISPOSSESSED PERSON ON REAL PROPERTY -- PROCEDURE UPON CONVICTION. Every person dispossessed or ejected from or out of any real property by the judgment or process of any court of competent jurisdiction, and who, not having right so to do, reenters into or upon, or takes possession of, any such real property, or induces or procures any person not having right so to do, or aids or abets him therein, is guilty of a contempt of the court by which such judgment was rendered, or from which such process issued. Upon a conviction for such contempt the court ~~or justice of the peace must~~ shall immediately issue an alias process directed to the proper officer, and requiring him to restore the party entitled to the possession of such property under the original judgment or process, to such possession.

SECTION 3. That Section 18-4309, Idaho Code, be, and the same is hereby amended to read as follows:

18-4309. UNAUTHORIZED TAMPERING WITH MEASURING DEVICES. Every person who shall wilfully ~~willfully~~ waste water for irrigation, or who shall wilfully ~~willfully~~ open, close, change or disturb, or interfere with, any headgate or water box or valve or measuring or regulating device, without authority, shall be guilty of a misdemeanor. The water masters or their assistants, within their district, shall have power to arrest any person or persons offending, and turn them over to the sheriff or the nearest peace officer of the county in which such offense is committed, and immediately upon delivering such person so arrested into the custody of either of such officers, it shall be the duty of the water master making such arrest to make complaint, in writing and under oath, before the ~~proper justice of the peace, or the probate~~ magistrate judge of such county, against the person so arrested.

SECTION 4. That Section 18-4907, Idaho Code, be, and the same is hereby amended to read as follows:

18-4907. SEARCH, SEIZURE, AND CONFISCATION. All moneys and property offered for sale or distribution in violation of any of the provisions of this chapter are forfeited to the state. And whenever any judge ~~or justice of the peace~~ shall have knowledge or receive satisfactory information of the violation of any of the provisions of this chapter within his district or county, it shall be his duty forthwith to issue his warrant, directed to the sheriff or constable, to seize and bring before him such moneys and property offered for sale or distribution. And, upon the conviction of any person or persons for violation of any of the provisions of this chapter, any property so seized as above provided in this section, shall be sold by the sheriff or constable at public auction and the proceeds thereof paid over to the county treasurer of said county for the county school fund.

SECTION 5. That Section 19-224, Idaho Code, be, and the same is hereby amended to read as follows:

19-224. COMMANDING RIOTERS TO DISPERSE. Where any number of persons, whether armed or not, are unlawfully or riotously assembled, the sheriff of the county and his deputies, or the officials governing the town or city, ~~or the justices of the peace and constables thereof, or any of them,~~ must shall go among the persons assembled, or as near to them as possible, and command them in the name of the people of the state immediately to disperse.

SECTION 6. That Section 19-227, Idaho Code, be, and the same is hereby amended to read as follows:

19-227. PROCLAMATION OF INSURRECTION. When the governor is satisfied that the execution of civil or criminal process has been forcibly resisted in any county by bodies of men, or that combinations to resist the execution of process by force exist in any county, and that the power of the county has been exerted and has not been sufficient to enable the officer having the process to execute it, he may, on the application of the officer, ~~or of the prosecuting attorney, or probate judge of the county,~~ by proclamation to be published in such papers as he shall direct, declare the county to be in a state of insurrection, and may order into the service of the state such number and description of volunteer or uniform companies, or other militia of the state as he shall deem necessary to serve for such term, and under the command of such officer or officers, as he shall direct.

SECTION 7. That Section 19-503, Idaho Code, be, and the same is hereby amended to read as follows:

19-503. WHO ARE MAGISTRATES. The following persons are magistrates:

- (1.) The justices of the ~~S~~supreme ~~C~~court.
- (2.) The judges of the court of appeals.
- (3) The district judges.
- (3-4) Magistrates of the district court.

SECTION 8. That Section 19-512, Idaho Code, be, and the same is hereby amended to read as follows:

19-512. DIRECTION TO OFFICERS THROUGHOUT STATE. If a warrant is issued by a ~~justice of the Supreme Court, judge of a District Court, probate judge, justice of the peace, or any other~~ magistrate, it may be directed generally to any sheriff, constable, marshal or policeman in the state, and may be executed by any of those officers to whom it may be delivered.

SECTION 9. That Section 19-3006, Idaho Code, be, and the same is hereby amended to read as follows:

19-3006. FORM OF SUBPOENA. A subpoena authorized by section 19-3004, Idaho Code, must be substantially in the following form:

The state of Idaho to A.B.:

You are commanded to appear before C.D., a ~~justice of the peace of precinct~~ [district] [magistrate] judge, in county (or as the case may be), at (naming the place), on (stating the day and hour), as a witness in a criminal action prosecuted by the state of Idaho against E.F.

Given under my hand this day of,

G.H., ~~Justice of the Peace~~ [District] [Magistrate] Judge, (or "J.K., Prosecuting Attorney," or

"By order of the court, L.M., Clerk," or as the case may be).

If books, papers or documents are required, a direction to the following effect must be contained in the subpoena: "And you are required, also, to bring with you the following" (describing intelligibly the books, papers or documents required).

SECTION 10. That Section 19-3009, Idaho Code, be, and the same is hereby repealed.

SECTION 11. That Section 19-3602, Idaho Code, be, and the same is hereby amended to read as follows:

19-3602. FORM OF SUMMONS. The summons must be substantially in the following form:

County of (as the case may be):

The state of Idaho to the (naming the corporation):

You are hereby summoned to appear before me at (naming the place), on (specifying the day and hour), to answer a charge made against you upon the information of A.B. (or the presentment of the grand jury of the county, as the case may be), for (designating the offense generally).

Dated at the city or precinct of, this day of,

G.H., ~~Justice of the Peace~~ [District Judge] [Magistrate Judge].

(Or as the case may be.)

SECTION 12. That Section 19-3903, Idaho Code, be, and the same is hereby amended to read as follows:

19-3903. ISSUANCE AND FORM OF WARRANT. If the ~~probate magistrate judge or justice of the peace~~ is satisfied therefrom that the offense complained of

has been committed, he must issue a warrant of arrest, which must be substantially in the following form:

County of

The state of Idaho to any sheriff, constable, marshal or policeman, in this state:

Complaint, upon oath, having been this day made before me (~~justice of the peace or probate magistrate judge, as the case may be~~), by C.D., that the offense of (designating it generally), has been committed, and accusing E.F. thereof; you are therefore commanded forthwith to arrest the above named E.F. and bring him before me forthwith at (naming place).

Witness my hand at, this day of, (~~And if in probate court, seal of court.~~) A.B.

SECTION 13. That Section 19-3904, Idaho Code, be, and the same is hereby amended to read as follows:

19-3904. DOCKET AND MINUTES. A docket must be kept by the ~~justice of the peace magistrate judge~~, or by the clerk of the probate court, in which must be entered each action and the proceedings of the court therein.

SECTION 14. That Section 19-4304, Idaho Code, be, and the same is hereby amended to read as follows:

19-4304. COMPELLING ATTENDANCE OF WITNESSES. A witness served with a subpoena may be compelled to attend and testify, or punished by the coroner for disobedience, in like manner as upon a subpoena issued by a ~~justice of the peace magistrate judge~~.

SECTION 15. That Section 19-4407, Idaho Code, be, and the same is hereby amended to read as follows:

19-4407. FORM OF WARRANT. The warrant must be in substantially the following form:

County of

The state of Idaho to any sheriff, constable, marshal, or policeman in the county of: Proof, by affidavit, having been this day made before me by (naming every person whose affidavit has been taken), that (stating the grounds of the application, or, if the affidavit be not positive, that there is probable cause for believing that -- stating the ground of the application in the same manner), you are therefore commanded, in the daytime (or at any time of the day or night, as the case may be) to make immediate search of the person of C.D. (or in the house situated, describing it or any other place to be searched, with reasonable particularity, as the case may be) for the following property: (describing it with reasonable particularity); and if you find the same or any part thereof, to bring it forthwith before me at (stating the place).

Given under my hand, and dated this day of,

E.T., ~~Justice of the Peace~~ [District Judge] [Magistrate Judge].

(Or as the case may be.)

SECTION 16. That Section 32-401, Idaho Code, be, and the same is hereby amended to read as follows:

32-401. MARRIAGE LICENSE -- CONTENTS. The county recorder of any county in this state shall have authority to issue marriage licenses to any parties applying for the same who may be entitled under the laws of this state to contract matrimony, authorizing the marriage of such parties, which licenses shall be substantially in the following form:

Know all men by this certificate that any regularly ordained minister of the gospel, authorized by the rites and usages of the church or denomina-

tion of ~~Christians, Hebrews,~~ or religious body of which he may be a member, or any judge or ~~justice of the peace~~ or competent officer to whom this may come, he not knowing of any lawful impediment thereto, is hereby authorized and empowered to solemnize the rites of matrimony between, of of the county of, and the state of, and, of of the county of, state of, and to certify the same to said parties, or either of them, under his hand and seal, in his ministerial or official capacity, and thereupon he is required to return his certificate in form following as hereto annexed.

In testimony whereof I have hereunto set my hand and affixed the seal of said county, at, this day of,

. . . . Recorder.

SECTION 17. That Section 32-402, Idaho Code, be, and the same is hereby amended to read as follows:

32-402. CERTIFICATE AND RETURN. The form of certificate annexed to said license, and therein referred to, shall be as follows:

I,, a, residing at, in the county of, in the state of Idaho, do certify that, in accordance with the authority on me conferred by the above license, I did on this day of, in the year, at, in the county of, in the state of Idaho, solemnize the rights of matrimony between, of, in the county of, of the state of, and, of, of the county of, of the state of, in the presence of and

Witness my hand and seal at the county aforesaid, this day of,

. . . .

In the presence of [Seal]

. . . .

The license and certificate, duly executed by the minister or officer who shall have solemnized the marriage authorized, shall be returned by him to the office of the recorder who issued the same, within thirty (30) days from the date of solemnizing the marriage therein authorized; and a neglect to make such return shall be deemed a misdemeanor, and the person whose duty it shall be to make such return, who shall neglect to make such return within the time above specified, shall, upon conviction thereof, be punished by a fine of not less than twenty dollars (\$20.00) nor more than fifty dollars (\$50.00) to be assessed by any ~~justice of the peace or other~~ court having jurisdiction.

SECTION 18. That Section 35-106, Idaho Code, be, and the same is hereby amended to read as follows:

35-106. DISAGREEMENT BETWEEN OWNERS -- VIEWERS. If adjoining proprietors cannot agree as to the proportion or the particular part of a division fence to be made, maintained or kept in repair by each respectively, either party may apply, on five (5) days' notice, to a ~~justice of the peace of the township, if there be one, if not, to the probate magistrate~~ judge, for the appointment of three (3) viewers, who may examine witnesses on oath, and view the premises and must determine:

1. If the fence is owned by one (1) proprietor, how much the other must pay as his proportion of the value.

2. If the fence or the whole thereof is not built, which part thereof must afterward be built and kept in repair by each.

The determination of the viewers must be reduced to writing and signed by them, and filed in the office of the county recorder, and such determination is conclusive upon the parties. If any part of such determination consists in fixing the value of a fence for which one (1) party is to pay the other a proportion also fixed, such proportion must be paid within thirty

(30) days after notice of such determination, and if not so paid, may be recovered by action in any court of competent jurisdiction. The viewers are entitled to a fee of three dollars (\$3.00) each, one-half (1/2) to be paid by each proprietor.

SECTION 19. That Section 38-804, Idaho Code, be, and the same is hereby amended to read as follows:

38-804. APPLICATION OF PROCEEDS. When sold, the proceeds of the timber must be applied, first, to the payment of the charges of the sale, and in liquidation of the expenses and damages awarded to the person entitled thereto; and the residue must be paid to the county treasurer, to be by him paid over to the owner, or his representative or assigns, on the production of satisfactory proof of ownership to the ~~probate~~ magistrate judge, and on his order therefor made within one (1) year after its receipt.

SECTION 20. That Section 38-805, Idaho Code, be, and the same is hereby amended to read as follows:

38-805. REJECTION OF CLAIMANT'S RIGHT -- DISPOSITION OF PROCEEDS. The rejection by the ~~probate~~ magistrate judge of any claimant's right to such proceeds is conclusive, unless, within six (6) months thereafter, he commences action therefor. In case no claim is made or sustained to such proceeds, the same must, by the county treasurer, be placed in the common school fund of the county.

SECTION 21. That Section 39-258, Idaho Code, be, and the same is hereby amended to read as follows:

39-258. ADOPTION OF PERSONS BORN IN IDAHO -- NEW BIRTH CERTIFICATE ISSUED TO REPLACE ORIGINAL CERTIFICATE -- PROCEDURE -- ADOPTION PROCEEDINGS NOT OPEN TO INSPECTION WITH CERTAIN EXCEPTIONS -- DUTIES OF THE CLERKS OF COURTS ISSUING ADOPTION DECREES -- DUTIES OF STATE REGISTRAR OF VITAL STATISTICS. (a) Whenever a final decree of adoption, issued by an Idaho court, declares a person born in Idaho to be adopted by someone other than his or her natural parents, the court shall require the preparation of a report (denominated as a certificate in accordance with Idaho court rules) of adoption on a form prescribed and furnished by the state registrar. The report shall include such facts as are necessary to locate and identify the certificate of birth of the person adopted; shall provide information necessary to establish a new certificate of birth for the person adopted; and shall identify the order of adoption and be certified by the clerk of the court.

(b) Information necessary to prepare the report of adoption shall be furnished by each petitioner for adoption or the petitioner's attorney. The provision of such information shall be prerequisite to the issuance of a final decree in the matter of the court.

(c) The report of adoption shall, within fifteen (15) days after becoming final, be recorded by the clerk of the court with the vital statistics unit in the state department of health and welfare.

(d) If a court of some other state issued a decree or report of adoption of a person actually born in Idaho, the certified copy or report may be similarly filed by the person involved or by the adoptive parents. Failure to file certified copies or reports of said decrees within said period of time, however, shall not bar issuance of a new birth certificate as hereinafter provided. This copy of said decree or report shall be filed with and remain a part of the records of the vital statistics unit.

(e) Upon receipt by the vital statistics unit of the certified report of adoption, a new certificate of birth shall be issued (but only in cases where such person's birth is already recorded with the vital statistics

unit) bearing among other things the name of the person adopted, as shown in the report of adoption, except that a new certificate of birth shall not be established if so requested by the court decreeing the adoption, the adoptive parents, or the adopted person. No such birth certificate shall have reference to the adoption of said person. Such birth certificate shall supplant and constitute a replacement of any birth certificate previously issued for said person and shall be the only birth certificate open to public inspection.

Provided however, upon good cause shown and the affidavit of the adoptive parents that a diligent search has been made, but no certificate of birth for the adoptive child can be located, the ~~probate~~ magistrate judge may order the adoptive child examined, at the expense of the adoptive parents, by a doctor of medicine licensed by the state of Idaho. The examination will be conducted pursuant to rules promulgated by the state board of health and welfare for the purpose of determining those matters required for the issuance of an original birth certificate. Upon the examination of the doctor made pursuant to the rules of the state board of health and welfare, the court may order the vital statistics unit to issue an original birth certificate for the adoptive child based upon those facts determined by the examination and included in the court's order. In such case a certified copy of the court order shall be provided to the vital statistics unit.

(f) In respect to form and nature of contents, such a new birth certificate shall be identical with a birth certificate issued to natural parents for the birth of a child, except that the adoptive parents shall be shown as parents and the adopted person shall have the name assigned by the decree of adoption as shown on the report of adoption. In a case where a single person adopts another person, any new birth certificate may designate the adopting parent as adoptive.

(g) Whenever an adoption decree is amended, annulled or rescinded, the clerk of the court shall forward a certified copy of the amendment, annulment or rescindment to the vital statistics unit in accordance with the time provisions in subsection (c) of this section. Unless otherwise directed by the court, the vital statistics unit shall amend the certificate of birth upon receipt of a certified copy of an amended decree of adoption. Upon receipt of a certified copy of a decree of annulment or rescindment of adoption, the original certificate of birth shall be restored to its place in the files and the new certificate and evidence shall not be subject to inspection except upon order of a court of record of this state.

(h) All records and information specified in this section other than a new birth certificate issued hereunder, and all records, files and information of any court in this state relating to adoption proceedings, shall not be open to inspection except as provided in section 39-259A, Idaho Code, or upon the order of a court of record of this state; provided however, that the provisions of section 16-1616, Idaho Code, to the contrary notwithstanding, any ~~probate court, or the~~ magistrate judge thereof, may furnish a certified copy of a decree of adoption to any duly authorized agency of the United States or the state of Idaho without procuring any prior court order therefor.

SECTION 22. That Section 48-406, Idaho Code, be, and the same is hereby amended to read as follows:

48-406. INJUNCTIONS. (1) Parties Authorized ~~To~~ Bring. Any person, municipal or other public corporation, or the state of Idaho, may maintain an action to enjoin a continuance of any act or acts in violation of this act.

(2) Authority to Issue. If it appears to the court upon any application for a temporary injunction, or upon the hearing for any order to show cause why a temporary injunction should not be issued, or, if the court shall find, in any such action, that any defendant therein is violating, or has violated,

this act, then the court shall enjoin the defendant from doing all acts which are prohibited in said act.

(3) Restraints Which May Be Included. The court may, in its discretion, include in any injunction against a violation of this act such other restraints as it may deem expedient in order to deter the defendant therefrom, and insure against his committing a future violation of this act.

(4) Article or Products Covered. Any injunction against a violation of this act, whether temporary or final, shall cover every article or product handled or sold by the defendant and not merely the particular article or product involved in the pending action.

(5) Undertaking or Bond. As a condition to the granting of a temporary injunction under this act, the court may require of the plaintiff, excepting when a municipal or public corporation or the state of Idaho is the plaintiff, a written undertaking in such sum as the court deems reasonable and proper in the premises, with sufficient sureties to the effect that the plaintiff will pay to the person enjoined such costs and damages, not exceeding an amount specified in said undertaking, as such person enjoined may incur or sustain by reason of the issuance of a temporary injunction, if it shall be finally decided that plaintiff was not entitled thereto.

Within five (5) days after the service of the temporary injunction, the defendant may except to the sufficiency of the sureties. If the defendant fails to do so he is deemed to have waived all objections to them.

When excepted to, the plaintiff's sureties, upon notice to the defendant of not less than two (2) nor more than five (5) days, must justify before the judge ~~or a probate judge~~, in the same manner as upon bail or arrest, and upon failure to justify, or if others in their place fail to justify at the time and place appointed the order granting an injunction shall be dissolved.

(6) Injury and Damages. In any action under this act, it is not necessary to allege or prove actual damages or threat thereof, or actual injury or threat thereof, to the plaintiff. But, in addition to injunctive relief, any plaintiff in any such action is entitled to recover the amount of the actual damages, if any, sustained by the plaintiff, as well as the actual damages, if any, sustained by any person who has assigned to the plaintiff his claim for damages resulting from a violation of this act.

SECTION 23. That Section 55-702, Idaho Code, be, and the same is hereby amended to read as follows:

55-702. BY WHOM TAKEN -- WITHIN LIMITED TERRITORY. The proof or acknowledgment of an instrument may be made in this state within the city, county or district for which the officer was elected or appointed, before either:

- (1.) A judge or a clerk of a court of record; or
- (2.) A county recorder; ~~or~~
3. A justice of the peace.

SECTION 24. That Section 55-717, Idaho Code, be, and the same is hereby repealed.

SECTION 25. That Section 55-1101, Idaho Code, be, and the same is hereby amended to read as follows:

55-1101. EXECUTION AGAINST HOMESTEAD. When an execution for the enforcement of a judgment, obtained in a case not within the classes before enumerated, is levied upon the homestead, the judgment creditor may apply to the ~~probate judge district court~~ of the county in which the homestead is situated for the appointment of persons to appraise the value thereof.

SECTION 26. That Section 55-1103, Idaho Code, be, and the same is hereby amended to read as follows:

55-1103. FILING OF APPLICATION. The petition must be filed with the clerk of the probate district court.

Approved February 22, 2012.

CHAPTER 21
(H.B. No. 384)

AN ACT

RELATING TO PUBLIC INSTITUTIONS OF HIGHER EDUCATION; AMENDING SECTION 33-3717B, IDAHO CODE, TO REVISE PROVISIONS OF RESIDENCY REQUIREMENTS FOR PUBLIC INSTITUTIONS OF HIGHER EDUCATION RELATING TO RESIDENT STUDENTS.

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

SECTION 1. That Section 33-3717B, Idaho Code, be, and the same is hereby amended to read as follows:

33-3717B. RESIDENCY REQUIREMENTS. (1) For any public institution of higher education in Idaho, a "resident student" is:

(a) Any student who has one (1) or more parent or parents or court-appointed guardians who are domiciled in the state of Idaho, and the parent, parents or guardians provide at least fifty percent (50%) of the student's support. Domicile, as used in this section, means that individual's true, fixed and permanent home and place of habitation. It is the place where that individual intends to remain, and to which that individual expects to return when that individual leaves without intending to establish a new domicile elsewhere. To qualify under this section, the parent, parents or guardians must have maintained a bona fide domicile in the state of Idaho for at least twelve (12) months prior to the opening day of the term for which the student matriculates.

(b) Any student, who receives less than fifty percent (50%) of the student's support from a parent, parents or legal guardians and who has continuously resided and maintained a bona fide domicile in the state of Idaho primarily for purposes other than educational for twelve (12) months next preceding the opening day of the term during which the student proposes to attend the college or university.

(c) Subject to subsection (2) of this section, any student who is a graduate of an accredited secondary school in the state of Idaho, and who matriculates at a college or university in the state of Idaho during the term immediately following such graduation regardless of the residence of the student's parent or guardian.

(d) The spouse of a person who is classified, or is eligible for classification, as a resident of the state of Idaho for the purposes of attending a college or university.

(e) A member of the armed forces of the United States who entered service as an Idaho resident and who has maintained Idaho resident status, but is not stationed within the state of Idaho on military orders.

(f) A member of the armed forces of the United States, stationed in the state of Idaho on military orders.

(fg) An officer or an enlisted member of the Idaho national guard.

~~(g) A student whose parent or guardian is a member of the armed forces and stationed in the state of Idaho on military orders and who receives fifty percent (50%) or more of support from parents or legal guardians.~~

~~The student, while in continuous attendance, shall not lose that residence when the student's parent or guardian is transferred on military orders.~~

(h) A person separated, under honorable conditions, from the United States armed forces after at least two (2) years of service, who at the time of separation designates the state of Idaho as his intended domicile or who has Idaho as the home of record in service and enters a college or university in the state of Idaho within one (1) year of the date of separation, or who moves to Idaho for the purpose of establishing domicile; provided however, to maintain status as a resident student, such person must actively establish domicile in Idaho within one (1) year of matriculation in a public institution of higher education in Idaho.

(i) The dependent child of a person who qualifies as a resident student under this paragraph the provisions of subsection (1) (e) through (h) of this section, and who receives at least fifty percent (50%) support from such person shall also be a resident student, and shall not lose that resident status if, after he or she enters a college or university in the state of Idaho, the parent or guardian is transferred out of the state of Idaho on military orders.

(~~i~~j) Any individual who has been domiciled in the state of Idaho, has qualified and would otherwise be qualified under the provisions of this statute and who is away from the state for a period of less than thirty (30) months and has not established legal residence elsewhere provided a twelve (12) month period of continuous residence has been established immediately prior to departure; provided however, time spent away from the state while enrolled in a postsecondary education program shall not be included in the thirty (30) months. Such time spent away from the state while enrolled shall include normal academic year breaks, such as summer breaks or breaks between semesters or quarters, that occur prior to the receipt of the postsecondary degree.

(~~j~~k) A student who is a member of any of the following Idaho Native American Indian tribes, regardless of current domicile, shall be considered an Idaho state resident for purposes of fees or tuition at institutions of higher education: members of the following Idaho Native American Indian tribes, whose traditional and customary tribal boundaries included portions of the state of Idaho, or whose Indian tribe was granted reserved lands within the state of Idaho: (i) Coeur d'Alene tribe; (ii) Shoshone-Paiute tribes; (iii) Nez Perce tribe; (iv) Shoshone-Bannock tribes; (v) Kootenai tribe.

(2) A "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of subsection (1) of this section, and shall include:

(a) A student attending an institution in this state with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one (1) year after the completion of the semester for which such assistance is last provided.

(b) A person who is not a citizen of the United States of America, who does not have permanent or temporary resident status or does not hold "refugee-parolee" or "conditional entrant" status with the United States immigration and naturalization service or is not otherwise permanently residing in the United States under color of the law and who does not also meet and comply with all applicable requirements of this section.

(3) The establishment of a new domicile in Idaho by a person formerly domiciled in another state has occurred if such person is physically present in Idaho primarily for purposes other than educational and can show satisfactory proof that such person is without a present intention to return to such other state or to acquire a domicile at some other place outside

of Idaho. A student who is enrolled for more than eight (8) hours in any semester or quarter during a twelve (12) month period shall be presumed to be in Idaho for primarily educational purposes. Such period of enrollment shall not be counted toward the establishment of a bona fide domicile in this state unless the student proves, in fact, establishment of a bona fide domicile in this state primarily for purposes other than educational. Institutions determining whether a student is domiciled in the state of Idaho primarily for purposes other than educational shall consider, but shall not be limited to, the following factors:

(a) Any of the following, if done for at least twelve (12) months before the term in which the student proposes to enroll as a resident student, proves the establishment and maintenance of domicile in Idaho for purposes other than educational and supports classification of a student as an Idaho resident:

(i) Filing of Idaho state income tax returns covering a period of at least twelve (12) months before the term in which the student proposes to enroll as a resident student;

(ii) Permanent full-time employment or the hourly equivalent thereof in the state of Idaho; or

(iii) Ownership by the student of the student's living quarters.

(b) The following, if done for at least twelve (12) months before the term in which the student proposes to enroll as a resident student, lend support to domiciliary intent and the absence of which indicates a lack of domiciliary intent. By themselves, the following do not constitute sufficient evidence of the establishment and maintenance of a domicile in Idaho for purposes other than educational:

(i) Registration and payment of Idaho taxes or fees on a motor vehicle, mobile home, travel trailer or other item of personal property for which state registration and the payment of a state tax or fee is required;

(ii) Registration to vote for state elected officials in Idaho at a general election;

(iii) Holding an Idaho driver's license;

(iv) Evidence of abandonment of a previous domicile;

(v) Presence of household goods in Idaho;

(vi) Establishment of accounts with Idaho financial institutions; and

(vii) Other similar factors indicating intent to be domiciled in Idaho and the maintenance of such domicile.

(4) The state board of education and the board of regents of the university of Idaho shall adopt uniform and standard rules applicable to all state colleges and universities now or hereafter established to determine resident status of any student and to establish procedures for review of that status.

(5) Appeal from a final determination denying resident status may be initiated by the filing of an action in the district court of the county in which the affected college or university is located; an appeal from the district court shall lie as in all civil actions.

(6) Nothing contained herein shall prevent the state board of education and the board of regents of the university of Idaho from establishing quotas, standards for admission, standards for readmission, or other terms and requirements governing persons who are not residents for purposes of higher education.

(7) For students who apply for special graduate and professional programs including, but not limited to, the WWAMI (Washington, Wyoming, Alaska, Montana, Idaho) regional medical program, the WICHE student exchange programs, Creighton university school of dental science, the university of Utah college of medicine, and the Washington, Oregon, Idaho (WOI) regional program in veterinary medical education, no applicant shall be certified

or otherwise designated as a beneficiary of such special program who has not been a resident of the state of Idaho for at least one (1) calendar year previous to the application date.

Approved February 22, 2012.

CHAPTER 22
(H.B. No. 367)

AN ACT

RELATING TO FEDERAL TRANSIT AUTHORITY; AMENDING CHAPTER 5, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-528, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO DESIGNATED RECIPIENTS FOR FEDERAL TRANSIT ADMINISTRATION FUNDING.

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

SECTION 1. That Chapter 5, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-528, Idaho Code, and to read as follows:

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

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

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

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

Approved March 1, 2012.

CHAPTER 23
(H.B. No. 369)

AN ACT

RELATING TO THE MILITARY DIVISION; AMENDING CHAPTER 8, TITLE 46, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 46-806, IDAHO CODE, TO CREATE THE MILITARY DIVISION SUPPORT FUND IN THE STATE TREASURY, TO PROVIDE THAT MONEYS IN THE FUND ARE PERPETUALLY APPROPRIATED AND TO PROVIDE DUTIES OF THE BOARD OF EXAMINERS AND THE OFFICE OF THE ATTORNEY GENERAL REGARDING THE FUND.

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

SECTION 1. That Chapter 8, Title 46, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 46-806, Idaho Code, and to read as follows:

46-806. MILITARY DIVISION SUPPORT FUND. (1) There is hereby created in the state treasury the military division support fund. Moneys in the fund shall be invested as provided in section 67-1210, Idaho Code, and interest earned on investment of idle moneys in the fund shall be credited to the fund. Moneys in the fund shall be continually appropriated.

(2) The adjutant general, or his designee, is hereby authorized to also accept by devise, gift or otherwise and hold as trustee, for the benefit and use of the military division or any part thereof, any property, real or personal. The adjutant general, or his designee, shall be empowered to collect, receive and recover the rents, incomes and issues from the property; and to sell, divest, exchange or transact such property at fair market value; and to otherwise expend fund assets as provided by the terms of the devise or gift, or if not so provided, to expend them for the benefit and use of the military division.

(3) The board of examiners shall have oversight of this fund. The adjutant general shall provide a public annual report, due on the first day of July each year, to the board of examiners disclosing the financial status of the fund, listing all new gifts, bequests, donations and contributions during the prior year as well as all sales or disposals of properties or assets from the fund and every disbursement or other use of the fund.

(a) The board of examiners shall approve all gifts of real property before acceptance by the adjutant general.

(b) The board of examiners shall approve all gifts valued at two hundred fifty thousand dollars (\$250,000) or more before acceptance by the adjutant general.

(c) The adjutant general may, on his or her own initiative, request review and approval by the board of examiners for any other gift prior to acceptance.

(4) The adjutant general may assign military division employees to manage the operation of the fund; and the adjutant general shall request the office of the attorney general to prepare any legal documents required under the provisions of this section.

Approved March 1, 2012.

CHAPTER 24
(H.B. No. 374)

AN ACT

RELATING TO ENGINEERS AND SURVEYORS; AMENDING SECTION 54-1212, IDAHO CODE, TO PROVIDE THAT ONLY CERTAIN PERSONS MAY QUALIFY FOR ASSIGNMENT TO EXAMINATIONS FOR INITIAL CERTIFICATION AND LICENSURE AND TO PROVIDE EXCEPTIONS, TO PROVIDE CONDITIONS UNDER WHICH THE BOARD MAY POSTPONE ACTING ON AN APPLICATION FOR ASSIGNMENT TO ANY EXAMINATION, TO PROVIDE CONDITIONS UNDER WHICH THE BOARD MAY POSTPONE THE RELEASE OF SCORES TO APPLICANTS AND TO GRANT THE BOARD AUTHORITY TO INVESTIGATE AND ADJUDICATE THE VALIDITY OF EXAMINATION IRREGULARITIES AND TO INVALIDATE THE SCORE OF AN APPLICANT UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTION 54-1213, IDAHO CODE, TO REMOVE THE REQUIREMENT THAT APPLICATIONS FOR LICENSURE AND CERTIFICATION BE MADE UNDER OATH; AND AMENDING SECTION 54-1219, IDAHO CODE, TO GRANT THE BOARD AUTHORITY TO POSTPONE ACTING ON AN APPLICATION FOR A LICENSE BY COMITY UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. That Section 54-1212, Idaho Code, be, and the same is hereby amended to read as follows:

54-1212. GENERAL REQUIREMENTS FOR EXAMINATION AND LICENSE. Except as herein otherwise expressly provided, no license as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern, shall be issued until an applicant has successfully passed an examination given by or under the supervision of the board, nor

shall a license as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern, be issued to an applicant having habits or character that would justify revocation or suspension of his license or certificate, as provided in section 54-1220, Idaho Code. Except for military personnel stationed in the state of Idaho on military orders and except for persons employed full-time in the state of Idaho, only residents of the state of Idaho and students enrolled at an Idaho university or college may qualify for assignment to examinations for initial certification or licensure. The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for assignment to an examination:

(1) As a professional engineer:

(a) Graduation from an approved engineering program of four (4) years or more in a school or college approved by the board as being of satisfactory standing, passage of an examination on the fundamentals of engineering acceptable to the board, and a specific record, after graduation, of an additional four (4) years or more of progressive experience in engineering work of a grade and character satisfactory to the board, and indicating that the applicant is competent to practice professional engineering; or

(b) Graduation with a bachelor's degree in a related science from a school or college approved by the board, and evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year engineering program, passage of an examination on the fundamentals of engineering acceptable to the board, and a specific record, after graduation, of four (4) years or more of progressive experience in engineering work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice professional engineering.

(2) As a professional land surveyor:

(a) Graduation from an approved surveying program of four (4) years or more in a school or college approved by the board as being of satisfactory standing, passage of an examination on the fundamentals of surveying acceptable to the board, and a specific record of an additional four (4) years or more of progressive combined office and field experience in land surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice professional land surveying; or

(b) Graduation with a bachelor's degree in a related science from a school or college approved by the board as being of satisfactory standing, and evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year surveying program, passage of an examination on the fundamentals of surveying acceptable to the board, and a specific record of an additional four (4) years or more of progressive combined office and field experience in land surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice land surveying.

(3) As an engineer intern:

(a) Graduation from or in the last two (2) semesters of an approved engineering program of four (4) years or more in a school or college approved by the board as being of satisfactory standing and indicating that the applicant is competent to enroll as an engineer intern; or

(b) Graduation with a bachelor's degree in a related science from a school or college approved by the board, and evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year

engineering program, and indicating that the applicant is competent to be enrolled as an engineer intern.

(c) In the event the applicant qualifies for assignment to the examination during the last two (2) semesters of college under the provisions of section 54-1212(3) (a), Idaho Code, and a passing grade is attained, a certificate will be issued only after the applicant graduates.

(4) As a land surveyor intern:

(a) Graduation from, or in the last two (2) semesters of, an approved surveying program of four (4) years or more in a school or college approved by the board as being of satisfactory standing and indicating that the applicant is competent to be enrolled as a land surveyor intern; or

(b) Graduation with a bachelor's degree in a related science from a school or college approved by the board, evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year surveying program, and indicating that the applicant is competent to be enrolled as a land surveyor intern.

(c) In the event the applicant qualifies for assignment to the examination during the last two (2) semesters of college under the provisions of subsection (4) (a) of this section, and attains a passing grade, a certificate shall be issued only after the applicant graduates.

In counting years of experience for assignment to the professional engineer or professional land surveyor examination, the board may, at its discretion, give credit, not in excess of one (1) year, for satisfactory graduate study toward a master's degree and not in excess of an additional one (1) year for satisfactory graduate study toward a doctorate degree. In the event an applicant obtains a doctorate degree without first obtaining a master's degree, the board may, at its discretion, give credit, not in excess of two (2) years.

In considering the combined education and experience qualifications of applicants, the board shall consider engineering teaching, land surveying teaching, each year of satisfactory completion of undergraduate college education, advanced degrees in engineering and advanced degrees in land surveying in establishing the applicants' minimum composite knowledge and skill.

The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as a foreman or superintendent, shall not be deemed to be the practice of engineering, but if such experience, in the opinion of the board, has involved responsible supervision of a character that will tend to expand the engineering knowledge and skill of the applicant the board may in its discretion give such credit therefor as it may deem proper.

Any person having the necessary qualifications prescribed in this chapter to entitle him to assignment to an examination for licensure or certification shall be eligible for such assignment although he may not be practicing his profession at the time of making his application.

The board may postpone acting on an application for assignment to any examination if disciplinary or criminal action related to the applicant's practice has been taken or is pending in any other jurisdiction. The board may postpone the release of scores to applicants on any examination if there is any unresolved examination irregularity involving the applicant. The board may investigate and adjudicate the validity of examination irregularities and if the examination irregularities are substantiated, the board may invalidate the score of the applicant.

SECTION 2. That Section 54-1213, Idaho Code, be, and the same is hereby amended to read as follows:

54-1213. APPLICATIONS AND FEES. Applications for licensure as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern, shall be on forms prescribed and furnished by the board. The application shall be made under oath, and shall show the applicant's education and a detailed summary of his engineering or land surveying experience. An applicant for licensure as a professional engineer or professional land surveyor shall furnish not less than five (5) references, of whom three (3) or more should be professional engineers or professional land surveyors, as applicable, having personal knowledge of the applicant's engineering or land surveying experience. Applications for certificates of authorization shall be made in accordance with section 54-1235, Idaho Code.

The maximum application fee for professional engineers or professional land surveyors seeking to be licensed by examination shall not exceed one hundred dollars (\$100). The application fee shall accompany the application. The examination fee, which shall be separate from the application fee, shall be paid by the applicant directly to the entity designated by the board.

The maximum application fee for an applicant who seeks a certificate as an engineer intern or land surveyor intern shall not exceed fifty dollars (\$50.00). The application fee shall accompany the application. The examination fee, which shall be separate from the application fee, shall be paid by the applicant directly to the entity designated by the board.

The maximum application fee for business entities seeking a certificate of authorization shall be two hundred dollars (\$200). The application fee shall accompany the application.

The amount of the license fee or certificate fee shall be fixed by the board prior to June 30 of any year and shall continue in force until changed.

Should the board deny the issuance of a certificate or license to any applicant, the application fee paid shall be retained as a processing fee.

SECTION 3. That Section 54-1219, Idaho Code, be, and the same is hereby amended to read as follows:

54-1219. COMITY LICENSURE -- FEE. The board, upon application therefor and the payment of a fee of not to exceed a maximum of one hundred fifty dollars (\$150), may issue a license as a professional engineer or professional land surveyor to any person who holds a license issued to the applicant by the proper authority of any state, territory or possession of the United States, the District of Columbia, or of a foreign country, provided that, in the opinion of the board, the applicant possesses the education, experience and examination credentials, or their equivalents, that were specified in the applicable licensing chapter in effect in this state at the time such license was issued, provided that a professional land surveyor applicant must successfully pass a land surveying examination as prepared and administered by the board, and provided such state, territory, possession or country will license, without examination and upon substantially the same condition, to applicants holding licenses issued by the board under this chapter. In the event the applicant has been licensed and has practiced as a professional engineer or professional land surveyor in another jurisdiction for a minimum of eight (8) years, has no outstanding disciplinary action, and is in good standing under a licensing system which, in the opinion of the board, maintains substantially equivalent professional standards as required under this chapter, the board may, in its discretion, waive the requirement for satisfaction of prescriptive credentials in education and examination. The board may postpone acting on

an application for a license by comity if disciplinary or criminal action related to the applicant's practice has been taken or is pending in any other jurisdiction.

Approved March 1, 2012.

CHAPTER 25
(H.B. No. 375)

AN ACT

RELATING TO PLATS AND VACATIONS; AMENDING SECTION 50-1332, IDAHO CODE, TO REVISE CONDITIONS UNDER WHICH A GOVERNING BODY MAY DIRECT THE COUNTY SURVEYOR OR CONTRACT WITH A PROFESSIONAL LAND SURVEYOR IN PRIVATE PRACTICE TO SET INTERIOR MONUMENTS FOR A SUBDIVISION, TO PROVIDE CONDITIONS UNDER WHICH A SUBSTITUTE PROFESSIONAL LAND SURVEYOR MAY ASSUME RESPONSIBLE CHARGE FOR SETTING INTERIOR MONUMENTS FOR A SUBDIVISION, TO PROVIDE CONDITIONS UNDER WHICH A SUBSTITUTE PROFESSIONAL LAND SURVEYOR IS REQUIRED TO FILE A RECORD OF SURVEY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 50-1332, Idaho Code, be, and the same is hereby amended to read as follows:

50-1332. SETTING INTERIOR MONUMENTS AFTER RECORDING OF PLAT -- BOND OR CASH DEPOSIT REQUIRED -- RELEASE OF BOND -- RETURN OF CASH DEPOSIT -- PAYMENT FOR SURVEY WORK -- COUNTY SURVEYOR PERFORMING SURVEY WORK. (1) If the interior monuments for a subdivision are to be set on or before a specified date after the recording of the plat of the subdivision, the person subdividing the land described in the plat shall furnish, prior to recording the plat, to the governing body of the city or county which approved the plat, either a bond or cash deposit, at the option of the governing body, in an amount equal to one hundred twenty percent (120%) of the estimated cost of performing the work for the interior monumentation. The estimated cost of performing such work will be determined by the professional land surveyor signing the plat.

(2) If the person subdividing the land described in subsection (1) of this section pays the professional land surveyor for performing the interior monumentation work and notifies the governing body of such payment, the governing body, within two (2) months after such notice, shall release the bond or return the cash deposit upon a finding that such payment has been made. Upon written request from the person subdividing the land, the governing body may pay the professional land surveyor from moneys within a cash deposit or bond held by it for such purpose and return the excess amount of the cash deposit, if any, to such person.

(3) ~~In the event of the death, disability, or retirement from practice of the surveyor charged with the responsibility for setting interior monuments for a subdivision or upon the inability, refusal or failure of such professional land surveyor to set such the interior monuments for a subdivision,~~ the governing body may direct the county surveyor in his official capacity or contract with a professional land surveyor in private practice to set such monuments and reference such monuments for recording as provided in section 50-1333, Idaho Code. Payment of the fees of a county surveyor or professional land surveyor in private practice performing such work shall be made as otherwise provided in this section. In the event the professional land surveyor signing the plat performed his services pursuant to a contract between the person subdividing the land and a business entity possessing a certificate of authorization, as required in this chapter, and the profes-

sional land surveyor is unable, refuses or fails to set the interior monuments for a subdivision, a substitute professional land surveyor employed by the same business entity may assume responsible charge for the remainder of the project and set the monuments, as provided in this chapter, and the governing body shall not direct the county surveyor or contract with a professional land surveyor in private practice to set such monuments.

(4) In the event any interior monument cannot be placed at the location shown on the plat, the professional land surveyor shall place a witness corner or reference point and he shall file a record of survey as provided in chapter 19, title 55, Idaho Code, to show the location of any witness corner or reference point in relation to the platted location of the corner. In the event the professional land surveyor signing the plat does not set the interior monuments for a subdivision, the substitute professional land surveyor shall file a record of survey as provided in chapter 19, title 55, Idaho Code, to show which monuments were set by which professional land surveyor.

Approved March 1, 2012.

CHAPTER 26
(H.B. No. 382)

AN ACT

RELATING TO THE PROFESSIONAL STUDIES ACCOUNT; AMENDING SECTION 33-3721, IDAHO CODE, TO REMOVE A REFERENCE TO STATE APPROPRIATIONS.

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

SECTION 1. That Section 33-3721, Idaho Code, be, and the same is hereby amended to read as follows:

33-3721. PROFESSIONAL STUDIES ACCOUNT. (1) There is hereby created in the dedicated fund, the professional studies account. The professional studies account shall be used to receive moneys ~~from state appropriations,~~ from private contributions, from gifts and grants, from repayment of loans, and from any other source, in support of medical, dental, veterinary, or other health-related professional programs of study.

(2) Interest earned on investments from moneys in the account shall be paid to the account.

(3) All moneys in the account are hereby appropriated to the state board of education for the purposes of section 33-3720, Idaho Code.

Approved March 1, 2012.

CHAPTER 27
(H.B. No. 402)

AN ACT

RELATING TO THE STATE BRAND BOARD; AMENDING SECTION 25-1103, IDAHO CODE, TO PROVIDE THAT THE STATE BRAND INSPECTOR AND PERSONNEL OF THE STATE BRAND INSPECTOR'S OFFICE SHALL BE EMPLOYED BY THE IDAHO STATE POLICE, TO PROVIDE THAT THE STATE BRAND INSPECTOR SHALL HAVE SUPERVISION OVER THE EMPLOYEES AND OTHER PERSONS NECESSARY IN CARRYING OUT THE FUNCTIONS OF THE BOARD AND TO PROVIDE THAT THE STATE BRAND INSPECTOR AND PERSONNEL

OF THE STATE BRAND INSPECTOR'S OFFICE SHALL BE GOVERNED BY THE POLICIES AND RULES OF THE STATE OF IDAHO AND THE IDAHO STATE POLICE CONCERNING PERSONNEL DISCIPLINARY MATTERS; AND AMENDING SECTION 25-1106, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 25-1103, Idaho Code, be, and the same is hereby amended to read as follows:

25-1103. STATE BRAND INSPECTOR -- APPOINTMENT, SALARY, BOND. The state board shall appoint the state brand inspector who shall be a nonclassified state employee and who shall serve at the pleasure of such board and the salary of such officer shall be fixed by such board within the limits of any appropriation available therefor.

The state brand inspector shall be bonded to the state of Idaho in the time, form and manner prescribed by chapter 8, title 59, Idaho Code.

The state brand inspector and personnel of the state brand inspector's office shall be employed by the Idaho state police to serve under the direction of the state board in carrying out the duties and responsibilities of the state board.

The state brand inspector shall have supervision over the employees and other persons necessary in carrying out the functions of the state board.

For administrative purposes, the state brand inspector and personnel of the state brand inspector's office shall be governed by the policies and rules of the state of Idaho and the Idaho state police concerning personnel disciplinary matters.

SECTION 2. That Section 25-1106, Idaho Code, be, and the same is hereby amended to read as follows:

25-1106. ~~DUTIES OF INSPECTOR AND DEPUTIES DEPUTY BRAND INSPECTORS AS LAW-ENFORCEMENT~~ LAW ENFORCEMENT OFFICERS. The state brand inspector and his ~~deputies~~ deputy brand inspectors shall also have power and the duty to enforce all of the laws of the state for the identification, inspection and transportation of livestock and sheep and all laws of the state designed or intended to prevent the theft of livestock and sheep and shall have all of the authority and powers of peace officers vested in the director of the Idaho state police, with general jurisdiction throughout the state.

The state brand inspector shall give special consideration to reducing the loss of livestock and sheep by theft and to that end may inspect and cause inspections to be made outside the state of Idaho of livestock and sheep transported or driven from the state of Idaho, and shall also coordinate the efforts of all other ~~law-enforcement~~ law enforcement officials and peace officers in the apprehension and conviction of persons who have stolen livestock, sheep, hides, pelts, or carcasses of livestock.

Approved March 1, 2012.

CHAPTER 28
(H.B. No. 407)

AN ACT

RELATING TO THE DIVISION OF BUILDING SAFETY; AMENDING SECTION 39-4115, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN PERSONNEL OF THE IDAHO BUILDING CODE BOARD AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 67-2601A, IDAHO CODE, TO PROVIDE THAT REGIONAL MANAGERS SHALL BE NONCLASSIFIED EMPLOYEES.

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

SECTION 1. That Section 39-4115, Idaho Code, be, and the same is hereby amended to read as follows:

39-4115. PERSONNEL. The division shall ~~employ a bureau chief, who shall in addition to his other duties, function~~ designate a nonclassified employee to serve as the executive director of the board, and such other personnel as necessary to effect enforcement of the codes herein enumerated or otherwise prescribed by rules promulgated by the board pursuant to this chapter. ~~All such employees, except the bureau chief, shall be classified as prescribed in chapter 53, title 67, Idaho Code.~~

SECTION 2. That Section 67-2601A, Idaho Code, be, and the same is hereby amended to read as follows:

67-2601A. DIVISION OF BUILDING SAFETY. (1) The division of building safety will be headed by an administrator appointed by and serving at the will of the governor. The division administrator, deputy administrators and ~~bureau chiefs~~ regional managers shall be nonclassified employees exempt from the provisions of chapter 53, title 67, Idaho Code.

(2) The administrator shall administer the following provisions and shall perform such additional duties as are imposed on him by law: chapter 41, title 39, Idaho Code, relating to the building code board; chapter 40, title 39, Idaho Code, relating to manufactured homes; chapter 41, title 39, Idaho Code, relating to modular buildings; chapter 21, title 44, Idaho Code, relating to manufactured home dealer and installer licensing; chapter 25, title 44, Idaho Code, relating to mobile home rehabilitation; chapter 10, title 54, Idaho Code, relating to electrical contractors and journeymen; chapter 19, title 54, Idaho Code, relating to licensing of public works contractors; chapter 26, title 54, Idaho Code, relating to plumbing and plumbers; chapter 45, title 54, Idaho Code, relating to public works construction management licensing; chapter 50, title 54, Idaho Code, relating to heating, ventilation and air conditioning systems; chapter 80, title 39, Idaho Code, relating to school building safety; and chapter 86, title 39, Idaho Code, relating to elevator safety.

(3) The administrator shall cooperate with the industrial commission and aid and assist the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, and at the request of the commission shall make inspection of appliances, tools, equipment, machinery, practices or conditions, and shall make a written report to the commission. The administrator shall make recommendations to the commission to aid the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, provided however, that nothing herein shall be construed as transferring to the administrator any of the authority or powers now vested in the industrial commission.

(4) In administering the laws regulating professions, trades and occupations that are devolved for administration upon the division, and in addition to the authority granted to the administrator by the laws and rules of the agencies and entities within the division, the administrator may:

(a) Revise the operating structure of the division as needed to provide efficient and appropriate services to the various professions, trades, occupations and programs administered within the division;

(b) Conduct examinations to ascertain the qualifications and fitness of applicants to exercise the profession, trade or occupation for which an examination is held; pass upon the qualifications of applicants for reciprocal licenses, certificates and authorities; prescribe rules for a fair and impartial method of examination of candidates to exercise the respective professions, trades or occupations; issue registrations,

licenses and certificates; and until fees are established in rule, the administrator shall charge a fee of seventy-five dollars (\$75.00) for each examination administered;

(c) Conduct hearings on proceedings to discipline, renew or reinstate licenses, certificates or authorities of persons exercising the respective professions, trades or occupations; appoint hearing officers, administer oaths, issue subpoenas, and compel the attendance of witnesses; revoke, suspend, refuse to renew, or take other disciplinary action against such licenses, certifications or authorities; and prescribe rules to recover costs and fees incurred in the investigation and prosecution of any certificate holder, licensee or registrant of the division, its boards, bureaus and programs, in accordance with the contested case provisions of chapter 52, title 67, Idaho Code, and the laws and rules of the boards, bureaus and programs the division administers;

(d) Assess civil penalties as authorized;

(e) Promulgate rules establishing: a coordinated system for the issuance, renewal, cancellation and reinstatement of licenses, certificates, registrations and permits; assessment of all related fees; the terms by which fees may be prorated, if any; and procedures for the replacement of lost or destroyed licenses, certificates or registrations; and

(f) Promulgate other rules as may be necessary for the orderly administration of the chapters specified in subsection (2) of this section and such rules as may otherwise be required by those chapters as well as rules for the standardization of operating procedures.

(5) Notwithstanding any law governing any specific board, bureau or program comprising the division of building safety, each board member shall hold office until a successor has been duly appointed and qualified.

(6) The administrator shall have the authority to employ individuals, make expenditures, enter into contracts, require reports, make investigations, travel, and take other actions deemed necessary.

Approved March 1, 2012.

CHAPTER 29
(H.B. No. 408)

AN ACT

RELATING TO THE IDAHO ELECTRICAL BOARD; AMENDING SECTION 54-1006, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PRESIDING OFFICIALS OF THE BOARD.

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

SECTION 1. That Section 54-1006, Idaho Code, be, and the same is hereby amended to read as follows:

54-1006. IDAHO ELECTRICAL BOARD. (1) The Idaho electrical board, hereinafter known as the board, is hereby created and made a part of the division of building safety. It shall be the responsibility and duty of the administrator of the division of building safety to administer and enforce the provisions of this act, and to serve as secretary to the Idaho electrical board.

(2) The board shall consist of nine (9) members to be appointed by the governor with power of removal for cause. Two (2) members shall be licensed journeymen or master electricians; two (2) members shall be employees or officers of licensed electrical contractors; one (1) member shall be a

licensed specialty journeyman or contractor; one (1) member shall be an employee or officer of an electrical power provider; one (1) member shall be an employee or officer of a manufacturing plant or other large power user; one (1) member shall be an employee or director of a manufacturer or distributor of electrical supplies or materials; and one (1) member shall be from the public at large not directly associated with the electrical industry. Board members shall be appointed for a term of four (4) years. Members of the board shall hold office until expiration of the term to which the member was appointed and until his successor has been duly appointed and qualified. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(3) All members of the board shall be citizens of the United States, residents of this state for not less than two (2) years and shall be qualified by experience, knowledge and integrity in formulating rules for examinations, in passing on the fitness and qualifications of applicants for electrical contractor and journeyman electrician licenses and in establishing standards for electrical products to be used in electrical installations coming under the provisions of this act.

(4) The members of the board shall, at their first regular meeting following the effective date of this act and every two (2) years thereafter, elect by majority vote of the members of the board, a chairman who shall preside at meetings of the board. ~~In and a vice chairman who shall preside at any board meeting in the event the chairman is not present at any board meeting, the board may by majority vote of the members present appoint a temporary chairman.~~ A majority of the members of the board shall constitute a quorum.

(5) The board is authorized and directed to prescribe and amend rules consistent with this act for the administration of this chapter and to effectuate the purpose thereof, and for the examination and licensing of electrical contractors, journeyman electricians, master electricians, specialty electricians, specialty electrical contractors, specialty electrical trainees and apprentice electricians. The board shall also establish the classifications for specialty electrician and specialty electrical contractor licensing and the fees to be charged for permits and inspections of electrical systems. The board shall establish by administrative rule the fines to be paid for citations issued and shall hear appeals regarding the imposition of civil penalties for violations of this chapter and the rules of the Idaho electrical board. The board is authorized to affirm, reject, decrease or increase the penalty imposed by the administrator. However, in no case shall the penalty exceed one thousand dollars (\$1,000) for each offense.

(6) Each member of the board not otherwise compensated by public moneys shall be compensated as provided by section 59-509 (n), Idaho Code.

Approved March 1, 2012.

CHAPTER 30
(H.B. No. 412)

AN ACT

RELATING TO THE IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION; AMENDING SECTION 54-3603, IDAHO CODE, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-3605, IDAHO CODE, TO REVISE THE POWERS AND DUTIES OF THE COMMISSION; AMENDING SECTION 54-3606, IDAHO CODE, TO REVISE PROVISIONS RELATING TO RESEARCH, ADVERTISING AND EDUCATIONAL CAMPAIGNS; AND AMENDING CHAPTER 36, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-3606A, IDAHO CODE, TO PROVIDE FOR POWERS

ASSOCIATED WITH THE PROMOTION OF IDAHO GRAPE PRODUCTS, TO PROVIDE THAT IN CONDUCTING SPECIFIED ACTIVITIES CERTAIN LICENSES, PERMITS OR REGISTRATION OR NOTIFICATION TO A PUBLIC OFFICIAL SHALL NOT BE REQUIRED, TO PROVIDE THAT SPECIFIED ACTIVITIES SHALL INCLUDE, BUT NOT BE LIMITED TO, DISPENSING OR SERVING SAMPLES OF WINE ON PREMISES NOT LICENSED FOR THE SALE OF WINE BY THE INDIVIDUAL GLASS OR OPENED BOTTLE AND TO PROVIDE FOR LIMITATIONS.

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

SECTION 1. That Section 54-3603, Idaho Code, be, and the same is hereby amended to read as follows:

54-3603. DEFINITIONS. As used in this chapter:

(1) "Account" means the Idaho grape growers and wine producers account in the dedicated fund.

(2) "Commission" means the Idaho grape growers and wine producers commission.

(3) "Grower" means any person who owns, operates or plants a native vineyard of four (4) or more acres.

(4) "Idaho grape product" means juices, raisins, wines and other grape by-products produced in Idaho and grapes grown in Idaho for the production of juices, raisins, wines and other grape by-products.

(5) "Native vineyard" means acreages planted in vinifera and/or other grapes cultivated primarily for the purpose of vinification.

(56) "Person" means any partnership, association, corporation, cooperative or other business unit or device.

(67) "Producer" means any person who owns, operates or conducts a bonded winery within this state where at least five hundred (500) cases of wine per year, are vinified in whole or in part for sale.

(78) "Winery" means a place, premises and/or establishment within the state of Idaho for the manufacture and/or bottling of wine for sale.

SECTION 2. That Section 54-3605, Idaho Code, be, and the same is hereby amended to read as follows:

54-3605. POWERS AND DUTIES OF COMMISSION. The commission shall have, but is not limited to, the following powers and duties:

(1) To elect a chairman and such other officers as it deems advisable.

(2) To appoint and employ, and at its pleasure discharge, all necessary agents, employees and professional personnel and other personnel, including experts in agriculture and the publicizing of wines and to prescribe their duties and fix their compensation.

(3) To establish offices and incur expense and enter into contracts and to create such liabilities as may be reasonable for the proper administration and enforcement of this act.

(4) To find new markets for ~~grapes and~~ Idaho grape products.

(5) To give, publicize and promulgate reliable information showing the value of ~~grapes and~~ Idaho grape products for any purpose for which they are found useful and profitable.

(6) To investigate and participate in studies of the problems to the growers of grapes in the state of Idaho.

(7) To take such action as the commission deems necessary or advisable in order to promote ~~grapes for~~ juices, raisins, wines and other grape by-products Idaho grape products.

(8) To enter into such contracts as may be necessary or advisable.

(9) To make use of such advertising means and methods as the commission deems advisable and to enter into contracts and agreements for research and advertising within and without the state of Idaho.

(10) To cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state, or the United States, engaged in work or activity similar to the work and activities of the commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education, product protection, publicity and reciprocal enforcement of these objects.

(11) To protect brands, marks, packages, brand names or trademarks being promoted by the commission.

(12) To do any and all things that will promote ~~grapes for juices, raisins, wines and other grape by-products~~ Idaho grape products.

(13) To keep an accurate record of all its dealings, which shall be open to inspection by the state controller.

(14) To sue and be sued.

(15) To adopt and from time to time alter, rescind, modify and/or amend all proper and necessary rules and orders for the exercise of its powers and performance of its duties under this act.

SECTION 3. That Section 54-3606, Idaho Code, be, and the same is hereby amended to read as follows:

54-3606. RESEARCH -- INVESTIGATION. The commission shall provide for and conduct comprehensive and extensive research, advertising and educational campaigns as the Idaho grape crop and wine product, sales and market conditions reasonably require. It will investigate and ascertain the needs of growers, conditions of the market and extent to which public convenience and necessity require research and advertising.

SECTION 4. That Chapter 36, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-3606A, Idaho Code, and to read as follows:

54-3606A. PROMOTION OF IDAHO GRAPE PRODUCTS. (1) In addition to the powers and duties set forth in section 54-3605, Idaho Code, the commission shall have, but is not limited to, the following powers to promote Idaho grape products:

(a) To host, sponsor or participate in activities and events dispensing or serving Idaho grape products to retailers, distributors, importers, evaluators, judges and members of the public. The commission may charge an admission charge to an activity or event.

(b) To host, sponsor or participate in activities and events promoting new markets for Idaho grape products, publicizing reliable information showing the value of Idaho grape products, or promoting research or education benefiting Idaho grape products and Idaho producers, wineries and growers. The commission may charge an admission charge to an activity or event.

(c) To solicit and receive donations of Idaho grape products for the purpose of promoting Idaho grape products.

(d) To purchase Idaho grape products for the purpose of promoting Idaho grape products.

(e) To donate Idaho grape products to activities, events, trade groups and other individuals and entities for the purpose of promoting Idaho grape products.

(f) To donate Idaho grape products to persons or associations for benevolent, charitable or public purposes, subject to the provisions of section 23-1336, Idaho Code.

(2) Notwithstanding any other provision of law including, but not limited to, chapter 13, title 23, Idaho Code, the following shall apply to the commission's activities under this section:

(a) The commission and the property owner, lessee and operator shall not be required to hold or obtain any license, permit or registration or to provide any notification to a public official to enable the commission, commission members, volunteers authorized by the commission and commission employees to engage in the activities authorized by this section.

(b) The activities of the commission, volunteers authorized by the commission, commission members and commission employees authorized by this section include, but are not limited to, dispensing or serving samples of wine on premises not licensed for the sale of wine by the individual glass or opened bottle.

(3) In the performance of activities authorized by this section, the commission shall observe the following limitations:

(a) The commission shall not receive any payment for the Idaho grape products it serves, dispenses or donates under this section. The receipt of an admission charge to an activity or event is not the receipt of payment by the commission for Idaho grape products for the purposes of this section.

(b) Individuals not serving as commission members, acting as volunteers authorized by the commission, or who are not commission employees are not authorized by this section to serve or dispense Idaho grape products. Nothing in this section shall prohibit an individual who is otherwise authorized by law to serve or dispense Idaho grape products from serving or dispensing such Idaho grape products.

(c) Where the commission dispenses or serves wine, the persons dispensing or serving wine and the recipients of the wine dispensed or served must be of legal drinking age.

Approved March 1, 2012.

CHAPTER 31
(H.B. No. 418)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1302, IDAHO CODE, TO REVISE A DEFINITION.

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

SECTION 1. That Section 59-1302, Idaho Code, be, and the same is hereby amended to read as follows:

59-1302. DEFINITIONS. (1) As used in this chapter, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) "Active member" means any employee who is not establishing the right to receive benefits through his or her employer's participation in any other retirement system established for Idaho public employees, if such participation is mandated by applicable Idaho statutes other than this chapter. In no case will an employee be entitled to any benefit under this chapter for public service if such employee is establishing retirement benefit entitlements by other Idaho statutes or federal statutes other than military service or social security for that same service.

(3) "Accumulated contributions" means the sum of amounts contributed by a member of the system, together with regular interest credit thereon.

(4) "Actuarial equivalent" means a benefit equal in value to another benefit, when computed upon the basis of the actuarial tables in use by the system.

(5) "Actuarial tables" means such tables as shall have been adopted by the board in accordance with recommendations of the actuary.

(5A) "Alternate payee" means a spouse or former spouse of a member who is recognized by an approved domestic retirement order as having a right to all or a portion of the accrued benefits in the retirement system with respect to such member.

(5B) "Approved domestic retirement order" means a domestic retirement order which creates or recognizes the existence of an alternate payee's right or assigns to an alternate payee the right to all or a portion of the accrued benefits of a member under the retirement system, which directs the system to establish a segregated account or disburse benefits to an alternate payee, and which the executive director of the retirement system has determined meets the requirements of sections 59-1319 and 59-1320, Idaho Code.

(5C) "Average monthly salary" means the member's average salary during the base period as calculated pursuant to rules adopted by the retirement board.

(5D) (a) "Base period" means the period of fifty-four (54) consecutive calendar months during which the member earned:

- (i) The highest average salary; and
- (ii) Membership service of at least one-half (1/2) the number of months in the period, excluding months of service attributable to:
 - A. Military service;
 - B. Service qualifying as minimum benefit pursuant to section 59-1342(5), Idaho Code; and
 - C. Worker's compensation income benefits.

(b) Effective October 1, 1993, the consecutive calendar months shall be forty-eight (48). Effective October 1, 1994, the consecutive calendar months shall be forty-two (42).

(c) Entitlement to a base period shall not vest until the effective date of that base period. The retirement benefits shall be calculated on the amounts, terms and conditions in effect at the date of the final contribution by the member.

(d) If no base period exists for a member, the member's average monthly salary shall be determined by the board, using standards not inconsistent with those established in this subsection.

(e) To assure equitable treatment for all members, salary increments inconsistent with usual compensation patterns may be disallowed by the board in determining average monthly salary and base period.

(6) "Beneficiary" means the person who is nominated by the written designation of a member, duly executed and filed with the board, to receive the death benefit.

(7) "Calendar year" means twelve (12) calendar months commencing on the first day of January.

(7A) "Contingent annuitant" means the person designated by a member under certain retirement options to receive benefit payments upon the death of the member. The person so designated must be born and living on the effective date of retirement.

(8) "Credited service" means the aggregate of membership service, prior service and disabled service.

(9) "Date of establishment" means July 1, 1965, or a later date established by the board or statute.

(10) "Death benefit" means the amount, if any, payable upon the death of a member.

(11) "Disability retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for disability retirement.

(12) "Disabled" means:

(a) That the member is prevented from engaging in any occupation or employment for remuneration or profit as a result of bodily injury or disease, either occupational or nonoccupational in cause, but excluding disabilities resulting from service in the armed forces of any country other than the United States, or from an intentionally self-inflicted injury; and

(b) That the member will likely remain so disabled permanently and continuously during the remainder of the member's life.

It is not necessary that a person be absolutely helpless or entirely unable to do anything worthy of compensation to be considered disabled. If the person is so disabled that substantially all the avenues of employment are reasonably closed to the person, that condition is within the meaning of "disabled." In evaluating whether a person is disabled, medical factors and non-medical factors including, but not limited to, education, economic and social environment, training and usable skills may be considered.

Refusal to submit to a medical examination ordered by the board before the commencement of a disability retirement allowance or at any reasonable time thereafter shall constitute proof that the member is not disabled. The board shall be empowered to select for such medical examination one (1) or more physicians or surgeons who are licensed to practice medicine and perform surgery. The fees and expenses of such examination shall be paid from the administration account of the fund. No member shall be required to undergo such examination more often than once each year after he has received a disability retirement allowance continuously for two (2) years.

(12A) "Disabled service" means the total number of months elapsing from the first day of the month next succeeding the final contribution of a member prior to receiving a disability retirement allowance to the first day of the month following the date of termination of such disability retirement allowance. During such period, the member shall remain classified in the membership category held during the month of final contribution. The total number of months of disabled service credited for a person first becoming disabled after the effective date of this chapter shall not exceed the excess, if any, of three hundred sixty (360) over the total number of months of prior service and membership service.

(12B) "Domestic retirement order" means any judgment, decree, or order, including approval of a property settlement agreement which relates to the provision of marital property rights to a spouse or former spouse of a member, and is made pursuant to a domestic relations law, including the community property law of the state of Idaho or of another state.

(13) "Early retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for early retirement.

(14) (A) "Employee" means:

(a) Any person who normally works twenty (20) hours or more per week for an employer or a school teacher who works half-time or more for an employer and who receives salary for services rendered for such employer;

(b) Elected officials or appointed officials of an employer who receive a salary;

(c) A person who is separated from service with less than five (5) consecutive months of employment and who is reemployed or reinstated by the same employer within thirty (30) days; or

(d) A person receiving differential wage payments as defined in 26 U.S.C. 3401(h) on or after July 1, 2009. A differential wage payment generally refers to an employer payment to an employee called to active duty in the uniformed services for more than thirty (30) days that represents all or a portion of the compensation he would have received from the employer if he were performing services for the employer.

(B) "Employee" does not include employment as:

- (a) A person rendering service to an employer in the capacity of an independent business, trade or profession; or
- (b) A person whose employment with any employer does not total five (5) consecutive months; or
- (c) A person provided sheltered employment or made-work by a public employer in an employment or industries program maintained for the benefit of such person; or
- (d) An inmate of a state institution, whether or not receiving compensation for services performed for the institution; or
- (e) A student enrolled in an undergraduate, graduate, or professional-technical program at and employed by a state college, university, community college or professional-technical center when such employment is predicated on student status; or
- (f) A person making contributions to the United States civil service commission under the United States Civil Service System Retirement Act except that a person who receives separate remuneration for work currently performed for an employer and the United States government may elect to be a member of the retirement system in accordance with rules of the board; or
- (g) A person not under contract with a school district or charter school, who on a day to day basis works as a substitute teacher replacing a contracted teacher and is paid a substitute wage as established by district policy or who, on a day to day basis works as a substitute assistant replacing a staff instruction assistant or a staff library assistant and is paid a substitute wage as established by district policy; or
- (h) A person occupying a position that does not exceed eight (8) consecutive months in a calendar year with a city, county or irrigation district when the city, county or irrigation district has certified, in writing to the system, the position is (i) seasonal or casual; and (ii) affected by weather and the growing season, including parks, golf course positions and irrigation positions; or
- (i) A person in a position that (i) is eligible for participation in an optional retirement program established under section 33-107A or 33-107B, Idaho Code, or (ii) would be eligible for participation in an optional retirement program established under section 33-107A or 33-107B, Idaho Code, if the person was not working less than half-time or less than twenty (20) hours per week.

(15) "Employer" means the state of Idaho, or any political subdivision or governmental entity, provided such subdivision or entity has elected to come into the system. Governmental entity means any organization composed of units of government of Idaho or organizations funded only by government or employee contributions or organizations who discharge governmental responsibilities or proprietary responsibilities that would otherwise be performed by government. All governmental entities are deemed to be political subdivisions for the purpose of this chapter.

(15A) "Final contribution" means the final contribution made by a member pursuant to sections 59-1331 through 59-1334, Idaho Code.

(16) "Firefighter" means an employee, including paid firefighters hired on or after October 1, 1980, whose primary occupation is that of preventing and extinguishing fires as determined by the rules of the board.

(17) "Fiscal year" means the period beginning on July 1 in any year and ending on June 30 of the next succeeding year.

(18) "Fund" means the public employee retirement fund established by this chapter.

(19) "Funding agent" means any bank or banks, trust company or trust companies, legal reserve life insurance company or legal reserve life insurance companies, or combinations thereof, any thrift institution or credit union or any investment management firm or individual investment manager

selected by the board to hold and/or invest the employers' and members' contributions and pay certain benefits granted under this chapter.

(20) "Inactive member" means a former active member who is not an employee and is not receiving any form of retirement allowance, but for whom a separation benefit has not become payable.

(20A) "Lifetime annuity" means periodic monthly payments of income by the retirement system to an alternate payee.

(20B) "Lump sum distribution" means a payment by the retirement system of the entire balance in the alternate payee's segregated account, together with regular interest credited thereon.

(21) "Member" means an active member, inactive member or a retired member.

(22) "Membership service" means military service which occurs after the commencement of contributions payable under sections 59-1331 through 59-1334, Idaho Code, and service with respect to which contributions are payable under sections 59-1331 through 59-1334, Idaho Code, which, except for benefit calculations described in sections 59-1342 and 59-1353, Idaho Code, includes service transferred to a segregated account under an approved domestic retirement order.

(23) "Military service" means any period of active duty service in the armed forces of the United States including the national guard and reserves, under the provisions of title 10, title 32, and title 37, United States code, which commences less than ninety (90) days after the person ceases to be an employee and ends less than ninety (90) days before the person again becomes an employee. Provided, if a member fails to again become an employee as a result of his death while in active duty service, the member shall be entitled to military service through the date of death. Provided further, if a member fails to again become an employee due to a disability retirement resulting from service in the armed forces of the United States, the member shall be entitled to military service through the date the disability allowance becomes payable. In no event shall military service include:

(a) Any period ended by dishonorable discharge or during which termination of such service is available but not accepted; or

(b) Any active duty service in excess of five (5) years if at the convenience of the United States government, or in excess of four (4) years if not at the convenience of the United States government, provided additional membership service may be purchased as provided in section 59-1362, Idaho Code.

(24) (a) "Police officer" for retirement purposes shall be as defined in section 59-1303, Idaho Code.

(b) "POST" means the Idaho peace officer standards and training council established in chapter 51, title 19, Idaho Code.

(25) "Prior service" means any period prior to July 1, 1965, of military service or of employment for the state of Idaho or any political subdivision or other employer of each employee who is an active member or in military service or on leave of absence on the date of establishment, provided, however, an employee who was not an active member or in military service or on leave of absence on the date of establishment shall receive credit for the member's service prior to July 1, 1965, on the basis of recognizing two (2) months of such service for each month of membership service. For the purpose of computing such service, no deduction shall be made for any continuous period of absence from service or military service of six (6) months or less.

(26) "Regular interest" means interest at the rate set from time to time by the board.

(27) "Retired member" means a former active member receiving a retirement allowance.

(28) "Retirement" means the acceptance of a retirement allowance under this chapter upon termination of employment.

(29) "Retirement board" or "board" means the board provided for in sections 59-1304 and 59-1305, Idaho Code, to administer the retirement system.

(30) "Retirement system" or "system" means the public employee retirement system of Idaho.

(31) (A) "Salary" means:

(a) The total salary or wages paid to a person who meets the definition of employee by an employer for personal services performed and reported by the employer for income tax purposes, including the cash value of all remuneration in any medium other than cash.

(b) The total amount of any voluntary reduction in salary agreed to by the member and employer where the reduction is used as an alternative form of remuneration to the member.

(B) Salary in excess of the compensation limitations set forth in section 401(a) (17) of the Internal Revenue Code shall be disregarded for any person who becomes a member of the system on or after July 1, 1996. The system had no limitations on compensation in effect on July 1, 1993. The compensation limitations set forth in section 401(a) (17) of the Internal Revenue Code shall not apply for an "eligible employee." For purposes of this subsection, "eligible employee" is an individual who was a member of the system before July 1, 1996.

(C) "Salary" does not include:

(a) Contributions by employers to employee held medical savings accounts, as those accounts are defined in section 63-3022K, Idaho Code.

(b) Lump sum payments inconsistent with usual compensation patterns made by the employer to the employee only upon termination from service including, but not limited to, vacation payoffs, sick leave payoffs, early retirement incentive payments and bonuses.

(c) Differential wage payments as defined in 26 U.S.C. 3401(h). A differential wage payment generally refers to an employer payment to an employee called to active duty in the uniformed services for more than thirty (30) days that represents all or a portion of the compensation he would have received from the employer if he were performing services for the employer.

(d) Employer payments to employees for or related to travel, mileage, meals, lodging or subsistence expenses, without regard to the taxability of such payments for federal income tax purposes and without regard to the form of payment, including payment made as reimbursement of an itemized expense voucher and payment made of an unvouchered expense allowance.

(31A) "Segregated account" means the account established by the retirement system for the alternate payee of a member who is not a retired member. It shall include the months of credited service and accumulated contributions transferred from the member's account.

(32) "Separation benefit" means the amount, if any, payable upon or subsequent to separation from service.

(33) "Service" means being shown on an employer's payroll as an employee receiving a salary. For each calendar month, service is credited only when a member is an employee as defined in subsection (14) (A) of this section and is employed for fifteen (15) days or more during the calendar month. Employment of fourteen (14) days or less during any calendar month shall not be credited. No more than one (1) month of service shall be credited for all service in any month.

(34) "Service retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for service retirement.

(35) "State" means the state of Idaho.

(36) "Vested member" means an active or inactive member who has at least five (5) years of credited service, except that a member, who at the time of his separation from service:

(a) Held an office to which he had been elected by popular vote or having a term fixed by the constitution, statute or charter or was appointed to such office by an elected official; or

(b) Was the head or director of a department, division, agency, statutory section or bureau of the state; or

(c) Was employed on or after July 1, 1965, by an elected official of the state of Idaho and occupied a position exempt from the provisions of chapter 53, title 67, Idaho Code; and

(d) Was not covered by a merit system for employees of the state of Idaho,

is vested without regard to the length of credited service.

(37) The masculine pronoun, wherever used, shall include the feminine pronoun.

Approved March 1, 2012.

CHAPTER 32
(H.B. No. 473)

AN ACT

RELATING TO DRIVER'S LICENSES AND IDENTIFICATION CARDS; AMENDING SECTION 49-313, IDAHO CODE, TO REVISE PROVISIONS RELATING TO AN EXAMINATION; AMENDING SECTION 49-319, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE EXPIRATION AND RENEWAL OF CERTAIN DRIVER'S LICENSES, TO REVISE PROVISIONS RELATING TO EXTENSION OF CERTAIN DRIVER'S LICENSES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-2444, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE EXPIRATION AND RENEWAL OF CERTAIN IDENTIFICATION CARDS, TO ESTABLISH PROVISIONS RELATING TO THE EXTENSION OF CERTAIN IDENTIFICATION CARDS, TO ESTABLISH PROVISIONS RELATING TO IDENTIFICATION CARDS FOR CERTAIN OUT-OF-STATE PERSONS AND TO ESTABLISH PROVISIONS REGARDING IDENTIFICATION CARDS ISSUED TO CERTAIN PERSONS RELATED TO ACTIVE DUTY IN THE ARMED FORCES OF THE UNITED STATES.

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

SECTION 1. That Section 49-313, Idaho Code, be, and the same is hereby amended to read as follows:

49-313. EXAMINATION OF APPLICANTS. (1) The sheriff, his deputy or authorized agents of the department shall examine every applicant for an instruction permit, restricted school attendance driving permit, seasonal driver's license, ~~or a driver's license~~ or a motorcycle endorsement, except as otherwise provided by law. The examination shall include a vision screening and a test of the applicant's eyesight, ~~his ability to read and understand highway signs regulating, warning, and directing traffic.~~ A skills test shall be required for an applicant who has not been previously licensed for the class of license requested, or who holds a license issued by another country unless a reciprocal agreement is in force. However, a skills test may be required for any and all other applicants at the discretion of the examiner or department for a class A, B, C or D driver's license or a motorcycle endorsement. In addition, the applicant's knowledge of traffic laws of this state and when a motorcycle endorsement is applied for, the applicant's knowledge of safe motorcycle operating practices and traffic laws specifically relating to motorcycle operation shall be tested by a written examination, except as provided in section 49-319, Idaho Code. At the discretion of the examiner, the prescribed written examination may be conducted orally.

(2) The knowledge and skills examinations for applicants for driver's licenses in class A, B or C shall be conducted in compliance with 49 CFR part 383.

(3) The skills test for a class A, B, C or D driver's license or for any endorsement shall be given by the department or its authorized agents. The skills examiner for a motorcycle endorsement shall be certified by the division of professional-technical education.

(4) The department shall not issue the following endorsements except as provided:

(a) A tank, double/triple trailer, or hazardous material endorsement unless the applicant, in addition to all other applicable qualifications, has passed an appropriate knowledge test.

(b) A passenger endorsement unless the applicant, in addition to all other applicable qualifications, has passed an appropriate knowledge and skills test.

(c) A school bus endorsement unless the applicant, in addition to all other applicable qualifications, has passed appropriate knowledge and skills tests. Until September 30, 2005, the department may waive the school bus endorsement skills test requirement if the applicant meets the conditions set forth in accordance with 49 CFR part 383.123.

(5) Any person failing to pass a knowledge or skills test for a class A, B, C or D driver's license, or a knowledge test for a seasonal driver's license, or any endorsement may not retake the test within three (3) business days of the failure.

(6) Any person retaking a knowledge or skills test for a driver's license shall pay the appropriate testing fee as specified in section 49-306, Idaho Code.

(7) The motorcycle skills test for a motorcycle endorsement shall be waived by the department:

(a) On and after September 1, 1998, if the applicant presents satisfactory evidence of successful completion of a recognized motorcycle rider training course approved by the division of professional-technical education;

(b) On and after September 1, 1998, if the applicant presents evidence of a motorcycle endorsement on his current license by a state or province which requires a motorcycle skills test equivalent to that required by Idaho law as determined by the division of professional-technical education;

(c) Until September 1, 1998.

(8) At the discretion of the department, an alternate skills test for the motorcycle endorsement may be administered when the endorsement is for operation of a three-wheeled motorcycle only.

(9) The department or its authorized agents may refuse to give an applicant a skills test if there are reasonable grounds to believe that the safety of the applicant, public, or the examiner would be jeopardized by doing so. Reasonable grounds would include, but not be limited to, the applicant's inability to pass the ~~eye test~~ vision screening, written tests, or a statement by a licensed physician stating the applicant is not physically able to drive a motor vehicle.

(10) The department or its authorized agents may deny issuance or renewal of a driver's license or endorsement to any applicant who does not meet the licensing requirements for the class of driver's license or endorsement being renewed or issued.

(11) Skills examinations for seasonal driver's licenses shall be waived.

SECTION 2. That Section 49-319, Idaho Code, be, and the same is hereby amended to read as follows:

49-319. EXPIRATION AND RENEWAL OF DRIVER'S LICENSE. (1) Every noncommercial Idaho driver's license issued to a driver shall expire and be renewable as follows:

(a) Twenty-one (21) years of age or older shall expire on the licensee's birthday in the fourth year following the issuance of the driver's license.

(b) At the option of the applicant, for drivers twenty-one (21) years of age through sixty-two (62) years of age, the driver's license shall expire either on the licensee's birthday in the fourth year or the eighth year following the issuance of the driver's license.

(c) Except for the provisions found in subsections (1) (e) and (3) of this section, ~~e~~Every driver's license issued to a driver under eighteen (18) years of age shall expire five (5) days after the licensee's eighteenth birthday.

(d) Except for the provisions found in subsections (1) (e) and (3) of this section, ~~e~~Every driver's license issued to a driver eighteen (18) years of age but under twenty-one (21) years of age shall expire five (5) days after the licensee's twenty-first birthday.

(e) ~~Except licenses issued to drivers under twenty-one (21) years of age,~~ ~~e~~ Every driver's license that is not, as provided by law, suspended, revoked or disqualified in this state or any other jurisdiction shall be renewable on or before its expiration, but not more than ~~twelve~~ twenty-five (25) months before, upon application, payment of the required fee, and satisfactory completion of the required ~~eyesight examination~~ vision screening.

(2) Except for the provisions found in subsection (3) of this section, ~~e~~Every commercial driver's license issued to a person twenty-one (21) years of age or older shall expire on the licensee's birthday in the fourth year following issuance of the license, and any class A, B or C license issued to a person eighteen (18), nineteen (19) or twenty (20) years of age shall expire five (5) days after the licensee's twenty-first birthday. There shall be no option for an eight-year class A, B or C license.

(3) Every driver's license issued to a person who is not a citizen or permanent legal resident of the United States shall have an expiration date that is the same date as the end of lawful stay in the United States as indicated on documents issued and verified by the department of homeland security, provided however, that the expiration date shall not extend beyond the expiration date for the same category of license issued to citizens. Persons whose department of homeland security documents do not state an expiration date shall be issued a driver's license with an expiration date of one (1) year from the date of issuance. Fees shall be in accordance with the expiration periods and classes listed in section 49-306(1), Idaho Code.

(4) An applicant who is issued a driver's license in another jurisdiction after an Idaho driver's license has been issued is not eligible for renewal or a duplicate of the Idaho driver's license. The applicant may apply for a new Idaho driver's license as provided in section 49-306, Idaho Code.

(5) No knowledge test shall be required for renewal of a driver's license, except for renewal of a hazardous material endorsement. Appropriate knowledge and skill tests shall be required for an upgrade in a driver's license class or an endorsement addition. In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(6) Applicants for a hazardous material endorsement shall provide either proof of United States citizenship or proof of lawful, permanent United States residence and a valid federal bureau of citizenship and immigration services alien registration number. A security background records check and

federal transportation security administration clearance shall be required for issuance, renewal or transfer of a hazardous material endorsement in accordance with 49 CFR part 383, subject to procedures established by the federal transportation security administration.

(7) ~~Except for drivers under twenty-one (21) years of age, w~~When a driver's license has been expired for fewer than ~~twelve~~ twenty-five (1225) months, the renewal of the driver's license shall start from the original date of expiration regardless of the year in which the application for renewal is made. If the driver's license is expired for ~~twelve~~ twenty-five (1225) months or more, the applicant shall be required to take the appropriate knowledge, test(s) and skills test(s) for the class of license or endorsement being applied for, and ~~vision tests and the application screening.~~ The license shall expire on the licensee's birthday in the fourth year following issuance of the driver's license for drivers twenty-one (21) years of age or older, except as otherwise provided in subsections (1) (e) and (3) of this section. At the option of the applicant, for drivers twenty-one (21) years of age through sixty-two (62) years of age, the renewed license shall expire either on the licensee's birthday in the fourth year or the eighth year following issuance, except as otherwise provided in subsections (1) (e) and (3) of this section.

(8) (a) If a driver's license has expired or will expire and the licensee is temporarily ~~out-of-state~~ out of state, except on active military duty, and the driver's license has not, as provided by law, been suspended, revoked, canceled, denied, refused or disqualified, the licensee may request in writing on a form prescribed by the department an extension of the driver's license. The request shall be accompanied by the fee fixed in section 49-306, Idaho Code, and the extension shall be ~~less no more than a twelve (12) month period.~~ If the department determines that an extension of the driver's license is necessary, it may issue a ~~certificate of extension license~~ showing the date to which the expired driver's license is extended, ~~and this certificate shall be attached to the expired driver's license. Certificates of License extensions are limited to two (2) consecutive extensions per licensee.~~

(b) Upon returning to the state of Idaho, the licensee shall, within ten (10) days, apply for a renewal of the expired driver's license and surrender the ~~certificate of extension~~ extended license and the expired driver's license.

(c) A hazardous material endorsement cannot be extended.

(9) An Idaho driver's license issued to any person prior to serving on active duty in the armed forces of the United States, or a member of the immediate family accompanying such a person, if valid and in full force and effect upon entering active duty, shall remain in full force and effect and shall, upon application, be extended for a period of four (4) years so long as active duty continues, or shall be renewed upon application in person without the requirement to take a knowledge or skills test if their Idaho driver's license expired while on active duty, if the driver's license is not suspended, denied, disqualified, canceled or revoked, as provided by law, during the active duty, and the driver's license shall remain in full force and effect sixty (60) days following the date the holder is released from active duty.

(10) The department may use a mail renewal process for four-year class D licenses based on criteria established by rule.

(11) A seasonal driver's license is only valid for a one hundred eighty (180) day period from the date of issuance. Only one (1) seasonal driver's license may be obtained in any twelve (12) month period, and may only be obtained twice in a driver's lifetime.

(12) A person who applies for renewal of a license may request that the notation "permanently disabled" be imprinted on the license and the department shall imprint "permanently disabled" on the license if:

- (a) The person has a permanent disability; and
- (b) The person presents written certification from a licensed physician, licensed physician assistant, or licensed advanced practice professional nurse verifying that the person's stated impairment qualifies as a permanent disability as provided in section 49-117, Idaho Code; and
- (c) The department determines that the person meets the requirements for issuance of a license as specified in section 49-313, Idaho Code.

SECTION 3. That Section 49-2444, Idaho Code, be, and the same is hereby amended to read as follows:

49-2444. IDENTIFICATION CARD ISSUED -- FOUR-YEAR OR EIGHT-YEAR. (1) The department shall issue a distinguishing identification card that shall set forth the information contained in the application, in a form as prescribed by the department. All identification cards issued on or after January 1, 1993, shall not contain the applicant's social security number. An applicant's social security number shall be exempt from disclosure except for inquiries from agencies or institutions authorized to obtain such information by federal law or regulation, from peace officers or from jury commissioners. Each card shall have printed on it the applicant's full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, and shall be issued a distinguishing number assigned to the applicant. If an applicant has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the applicant's identification card shall contain his or her alternative Idaho mailing address in place of his or her Idaho residence address. Each card shall also have printed on it the name of this state, the date of issuance, and the date of expiration. An identification card shall not be valid until it has been signed on the signature line by the applicant. Each card shall bear upon it a color photograph of the applicant which shall be taken by the examiner at the time of application. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the applicant to wear headgear or other head covering for medical, religious or safety purposes so long as the face is not disguised or otherwise concealed. At the request of the applicant, an identification card may contain a statement or indication of the medical condition of the applicant.

No person shall receive an identification card unless and until he surrenders to the department all identification cards in his possession issued to him by Idaho or any other jurisdiction, or any driver's license issued by any other jurisdiction within the United States, or until he executes an affidavit that he does not possess an identification card or any driver's license.

Identification cards issued to persons under eighteen (18) years of age shall include a notation "under 18 until (month, day, year)," and identification cards issued to persons eighteen (18) years of age to twenty-one (21) years of age shall include a notation "under 21 until (month, day, year)." The nonrefundable fee for a four-year identification card issued to persons twenty-one (21) years of age or older shall be ten dollars (\$10.00) of which five dollars (\$5.00) shall be retained by the county and credited to the current expense fund, and five dollars (\$5.00) shall be deposited in the state treasury to the credit of the highway distribution account. The nonrefundable fee for identification cards issued to persons under twenty-one (21) years of age shall be ten dollars (\$10.00), of which five dollars (\$5.00) shall be retained by the county and credited to the current expense fund, and five dollars (\$5.00) shall be deposited in the state treasury to the credit of the highway distribution account. The nonrefundable fee for an eight-year identification card shall be twenty dollars (\$20.00) of which ten dol-

lars (\$10.00) shall be retained by the county and credited to the current expense fund, and ten dollars (\$10.00) shall be deposited in the state treasury to the credit of the highway distribution account. At the option of the applicant, the identification card issued to a person twenty-one (21) years of age or older shall expire either on the cardholder's birthday in the fourth year or the eighth year following issuance of the card, except as otherwise provided in subsection (3) of this section. Every identification card issued to a person under eighteen (18) years of age shall expire five (5) days after the person's eighteenth birthday, except as otherwise provided in subsection (3) of this section. Every identification card issued to a person eighteen (18) years of age but under twenty-one (21) years of age shall expire five (5) days after the person's twenty-first birthday, except as otherwise provided in subsection (3) of this section.

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 registration requirements in conjunction with an application for an identification card. Any registration information so supplied shall be transmitted by the department to the selective service system.

(2) Every identification card, except those issued to persons under twenty-one (21) years of age, shall be renewable on or before its expiration, but not more than ~~twelve~~ twenty-five (~~12~~25) months before, and upon application and payment of the required fee.

(3) Every identification card issued to a person who is not a citizen or permanent legal resident of the United States shall have an expiration date that is the same date as the end of lawful stay in the United States as indicated on documents issued and verified by the department of homeland security, provided however, that the expiration date shall not extend beyond the expiration date for the same category of identification card issued to citizens. Persons whose department of homeland security documents do not state an expiration date shall be issued an identification card with an expiration date of one (1) year from the date of issuance.

(4) When an identification card has been expired for less than ~~twelve~~ twenty-five (~~12~~25) months, the renewal of the identification card shall start from the original date of expiration regardless of the year in which the application for renewal is made. If the identification card is expired for more than ~~twelve~~ twenty-five (~~12~~25) months, the application shall expire, at the option of the applicant, on the applicant's birthday in the fourth year or the eighth year following reissuance of the identification card, except as otherwise provided in subsection (3) of this section.

(5) (a) If an Idaho identification card has expired or will expire and the identification cardholder is temporarily out of state except on active military duty, the identification cardholder may request in writing on a form prescribed by the department an extension of the identification card. The request shall be accompanied by the fee fixed in section 49-306, Idaho Code, and the extension shall be no more than a twelve (12) month period. If the department determines that an extension of the identification card is necessary, it may issue an identification card showing the date to which the expired identification card is extended. Identification card extensions are limited to two (2) consecutive extensions per identification cardholder.

(b) Upon returning to the state of Idaho, the identification cardholder shall, within ten (10) days, apply for a renewal of the expired identification card and surrender the extended identification card and the expired identification card.

(6) An Idaho identification card issued to any person prior to serving on active duty in the armed forces of the United States, or a member of the immediate family accompanying such a person, if valid and in full force and effect upon entering active duty, shall remain in full force and effect

and shall, upon application, be extended for a period of four (4) years so long as active duty continues, and the identification card shall remain in full force and effect sixty (60) days following the date the cardholder is released from active duty.

(7) A person possessing an identification card who desires to donate any or all organs or tissue in the event of death, and who has completed a document of gift pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, may, at the option of the donor, indicate this desire on the identification card by the imprinting of the word "donor" on the identification card. The provisions of this subsection shall apply to persons possessing an identification card who are sixteen (16) years of age or older but less than eighteen (18) years of age if the requirements provided in chapter 34, title 39, Idaho Code, have been complied with.

(68) A person possessing an identification card or an applicant for an identification card who is a person with a permanent disability may request that the notation "permanently disabled" be imprinted on the identification card, provided the person presents written certification from a licensed physician verifying that the person's stated impairment qualifies as a permanent disability according to the provisions of section 49-117, Idaho Code.

(79) In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(810) Whenever any person, after applying for or receiving an identification card, shall move from the address shown on the application or on the identification card issued, that person shall, within thirty (30) days, notify the transportation department in writing of the old and new addresses.

(911) The department shall cancel any identification card upon determining that the person was not entitled to the issuance of the identification card, or that the person failed to give the required and correct information in his application or committed fraud in making the application. Upon cancellation, the person shall surrender the canceled identification card to the department.

(102) If any person shall fail to return to the department the identification card as required, the department may direct any peace officer to secure its possession and return the identification card to the department.

(113) The department may issue a no-fee identification card to an individual whose driver's license has been canceled and voluntarily surrendered as provided in section 49-322(5), Idaho Code. The identification card may be renewed at no cost to the applicant as long as the driver's license remains canceled.

(124) It is an infraction for any person to fail to notify the department of a change of address as required by the provisions of subsection (810) of this section.

Approved March 1, 2012.

CHAPTER 33
(H.B. No. 391)

AN ACT

RELATING TO THE PRIMARY ELECTION; AMENDING SECTION 34-102, IDAHO CODE, TO DELETE REFERENCE TO THE PRESIDENTIAL PRIMARY ELECTION; AMENDING SECTION 34-601, IDAHO CODE, TO DELETE REFERENCE TO THE PRESIDENTIAL PRIMARY ELECTION; AMENDING SECTION 34-713, IDAHO CODE, TO DELETE REFERENCE TO THE PRESIDENTIAL PRIMARY; REPEALING SECTIONS 34-731 THROUGH 34-739, IDAHO CODE, RELATING TO THE PRESIDENTIAL PRIMARY ELECTION;

AMENDING SECTION 34-1205, IDAHO CODE, TO DELETE REFERENCE TO THE PRESIDENTIAL PREFERENCE PRIMARY; AMENDING SECTION 34-1208, IDAHO CODE, TO DELETE REFERENCE TO THE PRESIDENTIAL PRIMARY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-102, Idaho Code, be, and the same is hereby amended to read as follows:

34-102. "PRIMARY ELECTION" DEFINED -- PURPOSES. "Primary election" means an election held for the purpose of nominating persons as candidates of political parties for election to offices, and for the purpose of electing persons as members of the controlling committees of political parties. Primary elections shall be held on the third Tuesday of May in each even-numbered year.

~~"Presidential primary" or "presidential preference primary" means an election held for the purpose of allowing voters to express their choice for candidates for nominations for president of the United States. Presidential primary elections shall be held in conjunction with the primary election, on the third Tuesday of May in each presidential election year.~~

SECTION 2. That Section 34-601, Idaho Code, be, and the same is hereby amended to read as follows:

34-601. DATES ON WHICH ELECTIONS SHALL BE HELD. Elections shall be held in this state on the following dates or times:

(1) A primary election shall be held on the third Tuesday in May, 2012, and every two (2) years thereafter on the above-mentioned Tuesday.

(2) A general election shall be held on the first Tuesday after the first Monday of November, 2012, and every two (2) years thereafter on the above-mentioned Tuesday.

(3) Special state elections shall be held on the dates ordered by the governor's proclamation, or as otherwise provided by law.

~~(4) A presidential primary shall be held in conjunction with the primary election, on the third Tuesday in May, 2012, and every four (4) years thereafter on the above-mentioned Tuesday.~~

SECTION 3. That Section 34-713, Idaho Code, be, and the same is hereby amended to read as follows:

34-713. PREPARATION OF PRIMARY BALLOTS. Upon receipt of the sample ballot and instructions from the secretary of state, each county clerk shall print and prepare the official primary ballots for the forthcoming election. The printing of the ballots shall be a county expense and paid out of the county treasury ~~except presidential preference primary ballots which shall be paid for as provided in section 34-739, Idaho Code.~~

Each county clerk shall cause to be published on the earliest date possible in May the names of all the political party candidates who shall appear on the primary ballot and ~~the names of all political party candidates who shall appear on the presidential preference primary ballot.~~ The names shall be listed alphabetically under each particular office title.

SECTION 4. That Section 34-731, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 34-732, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Section 34-733, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Section 34-734, Idaho Code, be, and the same is hereby repealed.

SECTION 8. That Section 34-735, Idaho Code, be, and the same is hereby repealed.

SECTION 9. That Section 34-736, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Section 34-737, Idaho Code, be, and the same is hereby repealed.

SECTION 11. That Section 34-738, Idaho Code, be, and the same is hereby repealed.

SECTION 12. That Section 34-739, Idaho Code, be, and the same is hereby repealed.

SECTION 13. That Section 34-1205, Idaho Code, be, and the same is hereby amended to read as follows:

34-1205. COUNTY BOARD OF CANVASSERS -- MEETINGS. The county board of commissioners shall be the county board of canvassers and the county clerk shall serve as their secretary for this purpose. The county board of canvassers shall meet within seven (7) days after the primary ~~or presidential preference~~ primary election and within ten (10) days after the general election for the purpose of canvassing the election returns of all precincts within the county.

SECTION 14. That Section 34-1208, Idaho Code, be, and the same is hereby amended to read as follows:

34-1208. CERTIFICATES OF NOMINATION OR ELECTION. Immediately after the primary election canvass the county clerk shall issue certificates of nomination to the political party candidates of each party who receive the highest number of votes for their particular county office, and the candidates so certified shall have their names placed on the general election ballot. On or before the eighth day after the primary election canvass, the county clerk shall issue certificates of election to the precinct committeemen of each political party who receive the highest number of votes in their precinct. Provided that to be elected, a precinct committeeman shall receive a minimum of five (5) votes. In the event no candidate receives the minimum number of votes required to be elected, a vacancy in the office shall exist and shall be filled as otherwise provided by law. The county clerk shall also certify by registered mail the results of both the primary and the ~~presidential primary~~ elections to the secretary of state. The form for such certificate shall be prescribed by the secretary of state and be uniform throughout the state.

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 March 1, 2012.

CHAPTER 34
(H.B. No. 383)

AN ACT

RELATING TO EDUCATION AND THE IDAHO OPPORTUNITY SCHOLARSHIP PROGRAM; AMENDING SECTION 33-5608, IDAHO CODE, TO REVISE PROVISIONS RELATING TO ADMINISTRATIVE COSTS OF THE PROGRAM.

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

SECTION 1. That Section 33-5608, Idaho Code, be, and the same is hereby amended to read as follows:

33-5608. OPPORTUNITY SCHOLARSHIP PROGRAM ACCOUNT. (1) There is hereby created an account in the state treasury to be designated the "opportunity scholarship program account."

(2) The account shall consist of moneys appropriated to the account by the legislature, moneys contributed to the account from other sources, and the earnings on such moneys. The executive director of the state board may receive on behalf of the state board any moneys or real or personal property donated, bequeathed, devised or conditionally granted to the state board for purposes of providing funding for such account. Moneys received directly or derived from the sale of such property shall be deposited by the state treasurer in the account.

(3) Earnings from moneys in the account or specified gifts shall be distributed annually to the state board to implement the opportunity scholarship program as provided for under this chapter.

(4) All moneys placed in the account and earnings thereon are hereby perpetually appropriated to the state board for the purpose described in subsection (3) of this section. All expenditures from the account shall be paid out in warrants drawn by the state controller upon presentation of the proper vouchers. Up to ~~five percent (5%)~~ fifty thousand dollars (\$50,000) of the annual earnings distribution to the state board, ~~but not to exceed seventy-five thousand dollars (\$75,000)~~, may be used by the state board annually for administrative costs related to the implementation of the provisions of this chapter.

(5) Allowable administrative costs include, but are not limited to, operating expenses for the implementation and maintenance of a database, operating expenses to administer the program, personnel costs necessary to administer the program and costs related to promoting awareness of the program.

(6) Pending use, surplus moneys in the account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code. Interest earned on the investments shall be returned to the account.

Approved March 1, 2012.

CHAPTER 35
(H.B. No. 385)

AN ACT

RELATING TO COMMUNITY COLLEGES; AMENDING SECTION 33-2139, IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE PROVISIONS RELATING TO MONEYS CREDITED TO THE COMMUNITY COLLEGE ACCOUNT AND TO PROVIDE THAT THE STATE TREASURER SHALL MAKE CERTAIN DISBURSEMENTS; AND AMENDING SECTION 33-2141, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DISBURSEMENT OF FUNDS FROM THE STATE COMMUNITY COLLEGE ACCOUNT AND TO REVISE TERMINOLOGY.

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

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

33-2139. STATE JUNIOR COMMUNITY COLLEGE ACCOUNT CREATED. There is hereby created a state ~~junior~~ community college account in the state operating fund in the state treasurer's office to which shall be credited all moneys which may be ~~appropriated, apportioned, or allocated~~ transferred to that account pursuant to section 23-404(1)(b)(iii), Idaho Code. The state treasurer shall make such disbursements from the account as may be ordered by the state ~~board of education~~ liquor division in accordance with the provisions of this act.

SECTION 2. That Section 33-2141, Idaho Code, be, and the same is hereby amended to read as follows:

33-2141. DISBURSEMENT OF FUNDS -- METHOD -- FUNDS DISBURSED NOT CONSIDERED IN FIXING TUITION. Funds ~~appropriated~~ transferred to the state ~~junior~~ community college account shall be disbursed quarterly to the qualifying ~~junior~~ community college districts as follows: ~~fifty percent (50%) of the moneys in the account shall be disbursed on the twentieth day of July of each year and the remainder of the account shall be disbursed on the first day of September of each year.~~ Funds disbursed under this act shall not be considered by the board of trustees of any ~~junior~~ community college in fixing tuition of such college pursuant to section 33-2110, Idaho Code.

Approved March 2, 2012.

CHAPTER 36
(H.B. No. 409)

AN ACT

RELATING TO THE DIVISION OF BUILDING SAFETY; AMENDING SECTION 39-4106, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE IDAHO BUILDING CODE BOARD MEMBER COMPENSATION; AND AMENDING SECTION 54-1908, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE PUBLIC WORKS CONTRACTORS LICENSE BOARD MEMBER COMPENSATION.

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

SECTION 1. That Section 39-4106, Idaho Code, be, and the same is hereby amended to read as follows:

39-4106. IDAHO BUILDING CODE BOARD CREATED -- MEMBERSHIP -- APPOINTMENT -- TERMS -- QUORUM -- COMPENSATION -- MEETINGS. (1) The Idaho building code board is established within the division as an appeals, code adoption and rulemaking board, to be appointed by the governor, and shall consist of ten (10) members: one (1) member of the general public; one (1) local fire official; one (1) licensed engineer; one (1) licensed architect; two (2) local building officials, one (1) from a county and one (1) from a city; two (2) building contractors, one (1) residential contractor who is an active member of the Idaho building contractors association with construction knowledge based primarily on a work history of buildings regulated by the International Residential Code, and one (1) commercial contractor who is an active member of either the associated builders and contractors or the associated general contractors of America with construction knowledge based primarily on a work history of buildings regulated by the International Building Code; one (1) representative of the modular building industry; and one (1) individual with a disability from an organization that represents people with all types of disabilities. Board members shall be appointed for terms of four (4) years and until their successor has been appointed. Three (3) consecutive failures by a member to attend meetings of the board without reasonable cause shall constitute cause for removal of the member from the board by the governor. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(2) The members of the board shall, at their first regular meeting following the effective date of this chapter and every two (2) years thereafter, elect by majority vote of the members of the board, a chairman who shall preside at meetings of the board. A majority of the currently appointed members of the board shall constitute a quorum.

(3) Each member of the board not otherwise compensated by public moneys shall be compensated as provided by section 59-509 (~~hn~~), Idaho Code, for each day spent in attendance at meetings of the board.

(4) The board shall meet for regular business sessions at the call of the administrator, chairman, or at the request of four (4) members of the board, provided that the board shall meet at least biannually.

SECTION 2. That Section 54-1908, Idaho Code, be, and the same is hereby amended to read as follows:

54-1908. MEETINGS -- QUORUM. The board shall hold not less than four (4) regular meetings each year, on a day not later than the fifteenth day of the month in each of the months of January, April, July and October, for the purpose of transacting such business as may properly come before it. At the April meeting of each year the board shall elect officers. Special or regular monthly meetings of the board may be held at such times as the board may

provide in the rules. Four (4) members of the board shall constitute a quorum. Two (2) members of the board may call a special meeting at any time. Due notice of each meeting of the board and the time and place thereof shall be given each member in the manner prescribed in the rules. Each member of the board shall be compensated as provided by section 59-509(hn), Idaho Code, and paid from the public works contractors license board account.

Approved March 2, 2012.

CHAPTER 37
(H.B. No. 394)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-4104, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE INTERSTATE AGREEMENT ON QUALIFICATION OF EDUCATIONAL PERSONNEL, TO REVISE PROVISIONS RELATING TO PURPOSE, TO PROVIDE FOR ASSUMPTIONS, TO PROVIDE DEFINITIONS, TO ESTABLISH PROVISIONS RELATING TO DUTIES OF MEMBER JURISDICTIONS, TO ESTABLISH PROVISIONS RELATING TO PROCEDURE FOR MEMBER PARTICIPATION, TO ESTABLISH PROVISIONS RELATING TO THE DURATION OF THE INTERSTATE AGREEMENT, TO ESTABLISH PROVISIONS RELATING TO THE ADMINISTRATION AND INTERPRETATION OF THE INTERSTATE AGREEMENT, TO ESTABLISH PROVISIONS RELATING TO USE OF A JURISDICTION-SPECIFIC REQUIREMENTS INDEX, TO ESTABLISH PROVISIONS RELATING TO CERTAIN LICENSURE REQUIREMENTS AND TO REMOVE LANGUAGE RELATING TO CONSTRUCTION AND SEVERABILITY OF THE AGREEMENT.

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

SECTION 1. That Section 33-4104, Idaho Code, be, and the same is hereby amended to read as follows:

33-4104. INTERSTATE COMPACT AGREEMENT ON QUALIFICATION OF EDUCATIONAL PERSONNEL. The interstate agreement on qualification of educational personnel is hereby enacted into law and entered into with all jurisdictions legally joining therein, as outlined in the national association of state directors of teacher education and certification (NASDTEC) interstate agreement, 2010 - 2015 in the form substantially as follows:

ARTICLE I, PURPOSE, FINDINGS, AND POLICY.

~~(1) The states party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.~~

~~(2) The party states find that included in the large movement of population among all sections of the nation are qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally~~

~~prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states or origin, can increase the availability of educational manpower.~~

The purpose of this interstate agreement is to provide a mechanism to inform the membership and the public of jurisdiction-specific requirements for educator licensure in each member jurisdiction.

ARTICLE II, DEFINITIONS ASSUMPTIONS.

~~As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise:~~

~~(1) "Educational personnel" means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.~~

~~(2) "Designated state official" means the education official of a state selected by that state to negotiate and enter into, on behalf of his state, contracts pursuant to this agreement.~~

~~(3) "Accept," or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.~~

~~(4) "State" means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.~~

~~(5) "Originating state" means a state (and the subdivision thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Article III.~~

~~(6) "Receiving state" means a state (and the subdivision thereof) which accepts education personnel in accordance with the terms of a contract made pursuant to Article III.~~

(1) Education is a regulated profession.

(2) Each member jurisdiction has the authority to establish professional and ethical standards for preparation, licensure and continuing development of educators.

(3) Each member jurisdiction has the responsibility to adhere to federal requirements and guidelines regarding the qualification of educators.

(4) Understanding licensure requirements of the different member jurisdictions facilitates professional educator mobility.

(5) The term "reciprocity" is often inappropriately applied to educator mobility between member jurisdictions.

(6) As licensure criteria differ from member jurisdiction to member jurisdiction, an educator's license from one (1) member jurisdiction is not automatically "exchanged" for a license in another member jurisdiction.

(7) Minimum essential components of an approved educator preparation program are completion of a:

(a) Bachelor's degree, either prior to admission to the program or as part of the program;

(b) Supervised clinical practice; and

(c) Planned program of study.

A member jurisdiction may impose additional components to meet its own standards.

(8) Recognition of national certification of educators, for example, the national board for professional teaching standards, is at the discretion of member jurisdictions.

(9) The terms defined in this interstate agreement provide a common vocabulary, which member jurisdictions agree to use in disseminating information nationally and internationally.

(10) The interstate agreement is not intended to alter, amend or regulate individual member jurisdiction licensure requirements.

ARTICLE III, INTERSTATE EDUCATIONAL PERSONNEL CONTRACTS DEFINITIONS.

~~(1) The designated state official of a party state may make one or more contracts on behalf of his state with one or more other party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this agreement. A designated state official may enter into a contract pursuant to this article only with states in which he finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his own state.~~

~~(2) Any such contract shall provide for:~~

~~a. Its duration.~~

~~b. The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state.~~

~~c. Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice on basic educational standards.~~

~~d. Any other necessary matters.~~

~~(3) No contract made pursuant to this agreement shall be for a term longer than five (5) years but any such contract may be renewed for like or lesser periods.~~

~~(4) Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.~~

~~(5) The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.~~

~~(6) A contract committee composed of the designated state officials of contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.~~

For purposes of this interstate agreement, the following terms are defined as:

(1) "Accredited institution" means a college or university which awards a baccalaureate or higher degree and, if located within the United States, is fully accredited by one (1) of the following regional accrediting bodies:

(a) Middle states association of colleges and schools;

(b) New England association of schools and colleges;

(c) North central association of colleges and schools;

(d) Northwest commission on colleges and universities;

(e) Southern association of colleges and schools; and

(f) Western association of schools and colleges.

If the college or university does not have regional accreditation as detailed above, consideration of the educator for licensure is at the discretion of the member jurisdiction.

(2) "Administrator" means an educator whose primary duties may include:

(a) The supervision of programs or curriculum; or

(b) Supervision or management of a local educational agency, a school building, a school program or a school system.

(3) "Approved program" means a planned program of study leading to licensure in the appropriate member jurisdiction. Approved programs may be either traditional or nontraditional. A nontraditional program is a post-baccalaureate program in which the candidate may be employed as an educator prior to completion of the program, as defined by the United States department of education (USDOE).

<u>Teacher</u>	<u>Traditional Program</u>	<u>Nontraditional Program</u>
<u>Rigorous Admission Standards</u>	<u>Yes</u>	<u>Yes, including a bachelor's degree earned prior to admission</u>
<u>Conferred Degree Upon Program Completion</u>	<u>Yes or No</u>	<u>Yes or No</u>
<u>Delivered by an Institution of Higher Education (IHE)</u>	<u>Yes</u>	<u>Yes or No</u>
<u>Supervised Clinical Practice</u>	<u>Yes</u>	<u>Yes, but may differ from a traditional program</u>
<u>May Be Employed As An Educator While Completing Program</u>	<u>No</u>	<u>Yes</u>
<u>Administrator</u>	<u>Traditional Program</u>	<u>Nontraditional Program</u>
<u>Rigorous Admission Standards</u>	<u>Yes, including a bachelor's degree or higher earned prior to admission</u>	<u>Yes, including a bachelor's degree or higher earned prior to admission</u>
<u>Conferred Degree Upon Program Completion</u>	<u>Yes or No</u>	<u>Yes or No</u>
<u>Delivered by an IHE</u>	<u>Yes</u>	<u>Yes or No</u>
<u>Supervised Clinical Practice</u>	<u>Yes</u>	<u>Yes, but may differ from a traditional program</u>
<u>May Be Employed As An Educator While Completing Program</u>	<u>Yes or No</u>	<u>Yes</u>

A program approved in one (1) member jurisdiction may not lead to licensure in another member jurisdiction.

(4) "Educator" is categorized as a teacher, administrator or support professional who may be required by the member jurisdiction to hold a license. A member jurisdiction may recognize additional categories of licensure (e.g., career and technical educators) not addressed by this interstate agreement.

(5) "Experience" means employment and licensure as required by the member jurisdiction.

(6) "Jurisdiction-specific requirement" (JSR) means any criterion beyond the minimum essential components required by a member jurisdiction for licensure. The following is a noninclusive list of JSRs:

- (a) Grade-point average;
- (b) Testing or other forms of assessment;
- (c) Mentoring;
- (d) Supervised and evaluated pre-service or professional experience;
- (e) Course delivery methodology;
- (f) Program approval comparability;
- (g) Specific coursework;
- (h) Valid license, as defined by the receiving member jurisdiction;
- (i) Post-baccalaureate coursework or degrees;
- (j) Continuing professional development;
- (k) Moral fitness or character; or
- (l) Citizenship.

(7) "Stages of administrator license" are described below and are general categories of licensure. Member jurisdictions may or may not offer these stages of licensure or require licensure to be eligible for certain school administrator work assignments.

(a) "Stage 1 administrator license" means a license issued to an individual who holds a minimum of a bachelor's degree, has met approved school administrator preparation program admission requirements, but has not met the jurisdiction-specific requirements of the issuing member jurisdiction.

(b) "Stage 2 administrator license" means a license issued to an individual who has completed an approved school administrator preparation program, but has not met the jurisdiction-specific requirements for a stage 3 license of the issuing member jurisdiction.

(c) "Stage 3 administrator license" means a license issued to an individual who holds a minimum of a master's degree and has met all jurisdiction-specific requirements for licensure, including endorsements when applicable.

(8) "Stages of teacher licensure" are described below and are general categories of licensure. Member jurisdictions may or may not have licenses available in each stage.

(a) "Stage 1 teacher license" means a license issued to an individual who holds a minimum of a bachelor's degree, has met approved teacher preparation program admission requirements, but has not met the jurisdiction-specific requirements of the issuing member jurisdiction.

(b) "Stage 2 teacher license" means a license issued to an individual who holds a minimum of a bachelor's degree, has completed an approved teacher preparation program, but has not met the jurisdiction-specific requirements for a stage 3 license of the issuing member jurisdiction.

(c) "Stage 3 teacher license" means a license issued to an individual who holds a minimum of a bachelor's degree, has completed an approved teacher preparation program and has met all jurisdiction-specific requirements of the issuing member jurisdiction.

(d) "Stage 4 teacher license" means a license issued to an individual who holds a minimum of a master's degree or the equivalent, has completed an approved teacher preparation program and has met any jurisdiction-specific requirements beyond those required for the stage 3 license of the issuing member jurisdiction.

(9) "License" means certificate, credential or other similar term designated by the member jurisdiction.

(10) "Member jurisdiction" means an entity which is a voting member of NASDTEC.

(11) "School" means an institution, other than a home school, which offers instruction for students of any grade, from birth through grade 12, which satisfies the compulsory attendance requirements of the member jurisdiction in which the institution is located.

(12) "Support professional" means a person other than a teacher or administrator who is required to hold an educator license based upon at least a bachelor's degree.

(13) "Teacher" means a person whose primary responsibility is to instruct students or as otherwise defined by the member jurisdiction.

ARTICLE IV, APPROVED AND ACCEPTED PROGRAMS DUTIES OF MEMBER JURISDICTIONS.

~~(1) Nothing in this agreement shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within the state.~~

~~(2) To the extent that contracts made pursuant to this agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contracts.~~

In signing this interstate agreement, member jurisdictions agree to:

(1) Adopt and enforce quality standards for approved programs;

(2) Maintain and publish a current listing of programs approved within the member jurisdiction;

(3) Apply jurisdiction-specific requirements equitably to applicants completing approved programs in any other member jurisdiction;

(4) Agree in principle to the "Assumptions" set forth in this interstate agreement;

(5) Agree in principle to the "Minimum Essential Components";

(6) In addition to signing the NASDTEC "Interstate Agreement for Educator Licensure," each member jurisdiction signs the NASDTEC "Educator Information Clearinghouse Agreement" agreeing to notify the NASDTEC "Educator Information Clearinghouse" immediately upon denial, suspension, revocation or surrender of an educator's license for reasons other than failing to meet academic requirements.

ARTICLE V, INTERSTATE COOPERATION PROCEDURE FOR MEMBER PARTICIPATION.

~~The party states agree that:~~

~~(1) They will, so far as practicable, prefer the making of multi-lateral contracts pursuant to article III of this agreement.~~

~~(2) They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualifications and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualifications.~~

(1) Each member jurisdiction shall complete a jurisdiction-specific requirement (JSR) index for each educator category in the form and time frame as directed by the NASDTEC executive director.

(2) Each member jurisdiction shall revise the jurisdiction-specific requirement (JSR) index immediately in the event that its licensure criteria are amended or modified.

(3) The NASDTEC executive director shall compile a master index reflecting all member jurisdiction's jurisdiction-specific requirements for distribution and for posting on the NASDTEC website.

ARTICLE VI, AGREEMENT EVALUATION DURATION OF THE INTERSTATE AGREEMENT.

~~The designated state officials of any party states may meet from time to time as a group to evaluate progress under the agreement, and to formulate recommendations for changes.~~

(1) This interstate agreement shall have duration until September 30 of each year ending in a five (5) or a zero (0), unless terminated as provided below. The interstate agreement shall be automatically renewed in the then-current format for each subsequent five (5) year period unless written notice of intent not to renew is given to the executive director of NASDTEC by July 1 of the final year of an interstate agreement period.

(2) A member jurisdiction may withdraw from the interstate agreement upon one (1) year's written notice to the executive director of NASDTEC, who shall in turn notify all other affected member jurisdictions. It shall be incumbent upon the executive director to notify other member jurisdictions.

ARTICLE VII, OTHER ARRANGEMENTS MISCELLANEOUS TERMS.

~~Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.~~

(1) The NASDTEC executive board, by and through the chair of the NASDTEC interstate agreement committee, shall be responsible for administration and interpretation of this interstate agreement.

(2) NASDTEC recognizes the fluidity of educator preparation and licensure laws, regulations and policies in member jurisdictions. It is NASDTEC's intent to maintain the jurisdiction-specific requirements (JSRs) index as a current and accurate reflection of each member jurisdiction's requirements. However, circumstances beyond the control of NASDTEC may, on occasion, inhibit the accuracy of the master index. Accordingly, it is recommended that users of the JSR index refer to member jurisdictions' websites to confirm specific requirements. Further, it is understood that this interstate agreement and the JSR index are provided to facilitate the exchange of information and are not intended to supplant or supersede individual jurisdiction's authority.

ARTICLE VIII, EFFECT AND WITHDRAWAL MEMBER JURISDICTION-SPECIFIC LICENSURE REQUIREMENTS.

~~(1) This agreement shall become effective when enacted into law by two (2) states. Thereafter it shall become effective as to any state upon its enactment of this agreement.~~

~~(2) Any party state may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one (1) year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.~~

~~(3) No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.~~

Driven by the "Assumptions" identified in Article II of this document, as of October 2010, NASDTEC member jurisdictions recognize the complex nature of the interstate agreement and the public's need for clear, accurate information when moving from one (1) member jurisdiction to another. Member jurisdictions agree to make "Levels of Licensure" and jurisdiction-specific requirements (JSRs) clear to each other and the public by completing and maintaining the JSR index. This index is intended to provide information to anyone seeking educator licensure in a member jurisdiction, whether prepared through a traditional or nontraditional pathway. It identifies spe-

cific requirements beyond the NASDTEC-identified "Minimum Essential Components" for educator preparation. A member jurisdiction's laws and regulations in place at the time of application for licensure supersede information provided here.

~~ARTICLE IX, CONSTRUCTION AND SEVERABILITY.~~

~~This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters.~~

Approved March 6, 2012.

CHAPTER 38

(H.B. No. 358, As Amended in the Senate)

AN ACT

RELATING TO PROPERTY TAXES; AMENDING SECTION 27-120, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DELIVERY OF PROPERTY VALUES TO CEMETERY DISTRICTS; AMENDING SECTION 39-1332, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DELIVERY OF PROPERTY VALUES TO HOSPITAL DISTRICTS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 40-802, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DELIVERY OF PROPERTY VALUES TO HIGHWAY DISTRICTS; AMENDING SECTION 63-810, IDAHO CODE, TO PROVIDE THAT PUBLIC HEARINGS WILL BE HELD CONCERNING LEVY ERRORS AFTER THE FOURTH MONDAY OF NOVEMBER OR AFTER TAX NOTICES HAVE BEEN MAILED; AMENDING SECTION 63-1312, IDAHO CODE, TO REVISE PROCEDURES FOR NOTIFYING SCHOOL DISTRICTS, THE STATE BOARD OF EDUCATION AND THE DEPARTMENT OF EDUCATION OF PROPERTY TAX VALUES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 27-120, Idaho Code, be, and the same is hereby amended to read as follows:

27-120. ASSESSOR AUDITOR TO FURNISH ASSESSED VALUATION -- BOARD TO MAKE LEVY. On or before the ~~first~~ third Monday in July of each year, the county ~~assessor~~ auditor shall deliver to the secretary of each cemetery maintenance district within the county a statement showing the aggregate valuation of all the taxable property in such district; and thereafter the cemetery board shall levy the taxes herein provided for.

SECTION 2. That Section 39-1332, Idaho Code, be, and the same is hereby amended to read as follows:

39-1332. ANNUAL STATEMENT OF VALUATION OF TAXABLE PROPERTY. On or before the ~~first~~ third Monday in July of each year the county ~~assessor~~ auditor shall deliver to the secretary of each hospital district within the county, a statement showing the aggregate valuation of all the taxable property in such district, and thereafter the district board shall levy the taxes herein provided for.

SECTION 3. That Section 40-802, Idaho Code, be, and the same is hereby amended to read as follows:

40-802. ASSESSOR AUDITOR TO FURNISH MARKET VALUE FOR ASSESSMENT PURPOSES -- BOARD TO MAKE LEVY. On or before the ~~first~~ third Monday in July of each year the county assessor auditor shall deliver to the secretary of each highway district within the county a statement showing the aggregate market value for assessment purposes of all the taxable property in the district, and showing separately the aggregate market value for assessment purposes of all the taxable property within each included city in each district. The highway district board shall levy the taxes provided for.

SECTION 4. That Section 63-810, Idaho Code, be, and the same is hereby amended to read as follows:

63-810. ERRONEOUS LEVY -- CORRECTIVE ACTION. (1) Whenever the county commissioners have discovered that a levy has been made by unintentional clerical, mathematical or electronic error, in any levy certified by such board, the county commissioners on its own motion may:

(a) If discovered prior to the fourth Monday of November of the year for which the levy is certified, order all necessary corrections made in all property tax records, if the corrected levy is otherwise within statutory limits.

(b) If discovered after the fourth Monday of November of the year for which the levy is certified, but before January 30 of the succeeding year, order all necessary corrections made in all property tax records, if the corrected levy is otherwise within statutory limits. The corrected levy shall be applied to the taxable value within each taxing district and the property taxes so applied shall be a perpetual lien on the property, and such property tax levy and tax charge shall supersede all previous incorrect levies and charges made for that year, except that the property tax computed using the corrected levy shall allow a credit for the amount of property taxes previously paid. If additional property tax is owed due to the corrected levy, the county tax collector shall, prior to the fourth Monday in May, mail to the last record owner of any property affected by such erroneous levy a notice of tax correction. The deadline for paying such property tax shall be no later than June 20 of that year. Late charges and interest will be added if full property tax is not paid by June 20 and interest will be calculated from January 1 as provided in section 63-1001, Idaho Code.

(c) Provided that the levy correction is made after the fourth Monday of November or after tax notices have been mailed, the levy correction shall be considered at a hearing held by the county commissioners at which time any taxpayer may appear and be heard upon the issue. Notice of the date, time, place and purpose of such hearing shall be published in a newspaper published in the county, or if there is none, then in a newspaper of general circulation in the county. The notice shall be run once each week for the two (2) weeks preceding the hearing. The hearing shall be held not less than seven (7) days after the first notice is published.

(2) The county commissioners shall submit the corrected levy and a copy of the order to the state tax commission. The state tax commission shall review the corrected levy and take action as required in section 63-809, Idaho Code.

(3) For the purposes of sections 63-701 through 63-710, Idaho Code, and for the purposes of the distributions required in section 63-3638, Idaho Code, the state tax commission, county auditor, and the county commissioners shall use the corrected values and numbers allowed in this section to recompute and correct such distributions by adjusting future distributions to

account for any difference. For the purposes of chapters 8 and 10, title 33, Idaho Code, the state department of education shall use the corrected values and numbers allowed in this section.

SECTION 5. That Section 63-1312, Idaho Code, be, and the same is hereby amended to read as follows:

63-1312. MUNICIPAL PROPERTY TAXES -- NOTIFICATION OF VALUATION. (1) Prior to the fourth Monday of March of the current year the county auditor must notify every taxing district or authority and ~~the state board of education, other than school districts,~~ of the total taxable valuation of all the taxable property situated within such districts for the preceding calendar year for the purpose of assisting such governing authorities in their determination of tax rates to be levied for the current year and other informational purposes. Prior to the fourth Monday of March of the current year the state tax commission must notify the state board of education and the state department of education of the total taxable valuation of all the taxable property situated within each school district for the preceding calendar year.

(2) Prior to the first Monday in August the auditor of each county in the state shall notify the state tax commission and the clerk of each taxing unit in his county of the taxable valuation of all the taxable property situated within that taxing district from the property roll for the current year, from the operating property roll for the previous year, from the prior year's actual or current year's estimated subsequent property roll and missed property roll, and the amount of value subject to occupancy tax notwithstanding exemptions authorized in chapter 6, title 63, Idaho Code, for the previous year.

(3) The auditor shall furnish the valuation from the current operating property roll upon receipt from the state tax commission.

(4) Subsequent to the notification of the county auditor of revenues sufficient to cover expenses as provided in section 50-2903(5), Idaho Code, taxable value as used in this section shall also include the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area.

SECTION 6. 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, 2012.

Approved March 6, 2012.

CHAPTER 39
(H.B. No. 405)

AN ACT

RELATING TO ELECTRONIC CIGARETTES; AMENDING SECTION 39-5702, IDAHO CODE, TO DEFINE A TERM, TO REVISE DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-5703, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO THE POSSESSION, DISTRIBUTION OR USE OF ELECTRONIC CIGARETTES BY MINORS; AMENDING SECTION 39-5705, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO THE SALE OR DISTRIBUTION OF ELECTRONIC CIGARETTES TO MINORS; AMENDING SECTION 39-5706, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO VENDOR ASSISTED SALES OF ELECTRONIC CIGARETTES, TO PROVIDE THAT AFTER A CERTAIN DATE, IT SHALL BE UNLAWFUL TO SELL OR DISTRIBUTE ELECTRONIC CIGARETTES FROM A VENDING MACHINE, TO PROVIDE THAT IT SHALL BE UNLAWFUL TO SELL OR DISTRIBUTE ELECTRONIC CIGARETTES

FROM SELF-SERVICE DISPLAYS AND TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 39-5708, IDAHO CODE, TO PROVIDE A CIVIL PENALTY FOR CERTAIN VIOLATIONS RELATING TO ELECTRONIC CIGARETTES; AMENDING SECTION 39-5710, IDAHO CODE, TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO THE CONDUCT OF ENFORCEMENT ACTIONS; AMENDING SECTION 39-5713, IDAHO CODE, TO PROVIDE THAT LOCAL UNITS OF GOVERNMENT SHALL NOT HAVE THE POWER TO REQUIRE A PERMIT OR LICENSE FOR THE SALE OR DISTRIBUTION OF ELECTRONIC CIGARETTES; AMENDING SECTION 39-5714, IDAHO CODE, TO PROVIDE THAT NO SELLER SHALL MAKE A DELIVERY SALE OF ELECTRONIC CIGARETTES TO ANY MINOR IN THIS STATE; AMENDING SECTION 39-5715, IDAHO CODE, TO PROVIDE CERTAIN AGE VERIFICATION REQUIREMENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-5717, IDAHO CODE, TO REVISE A SHORT TITLE AND TO PROVIDE A CORRECT CODE REFERENCE; AND AMENDING CHAPTER 57, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-5717A, IDAHO CODE, TO PROVIDE SHIPPING REQUIREMENTS FOR ELECTRONIC CIGARETTES.

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

SECTION 1. That Section 39-5702, Idaho Code, be, and the same is hereby amended to read as follows:

39-5702. DEFINITIONS. The terms used in this chapter are defined as follows:

(1) "Business" means any company, partnership, firm, sole proprietorship, association, corporation, organization, or other legal entity, or a representative of the foregoing entities.

(2) "Delivery sale" means to distribute tobacco products or electronic cigarettes to a consumer in a state where either: (a) the individual submits the order for such sale by means of a telephonic or other method of voice transmission, data transfer via computer networks, including the internet and other online services, or facsimile, or the mails; or (b) the tobacco products or electronic cigarettes are delivered by use of the mails or a delivery service.

(3) "Delivery service" means any person who is engaged in the commercial delivery of letters, packages or other containers.

(4) "Department" means the state department of health and welfare or its duly authorized representative.

(5) "Distribute" means to give, deliver, sell, offer to give, offer to deliver, offer to sell or cause any person to do the same or hire any person to do the same.

(6) "Electronic cigarette" means any device that can provide an inhaled dose of nicotine by delivering a vaporized solution. "Electronic cigarette" includes the components of an electronic cigarette including, but not limited to, liquid nicotine.

(7) "Minor" means a person under eighteen (18) years of age.

(78) "Minor exempt permit" means a permittee location whose revenues from the sale of alcoholic beverages for on-site consumption comprises at least fifty-five percent (55%) of total revenues, or whose products and services are primarily obscene, pornographic, profane or sexually oriented, is exempt from inspections assisted by a minor, if minors are not allowed in the location and such prohibition is posted clearly on all entrance doors.

(89) "Permit" means a permit issued by the department for the sale or distribution of tobacco products.

(910) "Permittee" means the holder of a valid permit for the sale or distribution of tobacco products.

(101) "Photographic identification" means state, district, territorial, possession, provincial, national or other equivalent government driver's license, identification card or military card, in all cases bearing a photograph and a date of birth, or a valid passport.

(112) "Random unannounced inspection" means an inspection of retail outlets by a law enforcement agency or by the department, with or without the assistance of a minor, to monitor compliance of this chapter.

(123) "Seller" means the person who physically sells or distributes tobacco products or electronic cigarettes.

(134) "Tobacco product" means any substance that contains tobacco including, but not limited to, cigarettes, cigars, pipes, snuff, smoking tobacco, tobacco papers, or smokeless tobacco.

(145) "Vending machine" means any mechanical, electronic or other similar device which, upon the insertion of tokens, money or any other form of payment, dispenses tobacco products or electronic cigarettes.

(156) "Vendor assisted sales" means any sale or distribution in which the customer has no access to the product except through the assistance of the seller.

(167) "Without a permit" means a business that has failed to obtain a permit or a business whose permit is suspended or revoked.

SECTION 2. That Section 39-5703, Idaho Code, be, and the same is hereby amended to read as follows:

39-5703. POSSESSION, DISTRIBUTION OR USE BY A MINOR. (1) It shall be unlawful for a minor to possess, receive, purchase, sell, distribute, use or consume tobacco products or electronic cigarettes or to attempt any of the foregoing.

(2) It shall be unlawful for a minor to provide false identification, or make any false statement regarding their age in an attempt to obtain tobacco products or electronic cigarettes.

(3) A minor who is assisting with a random unannounced inspection in accordance with this chapter shall not be in violation of this chapter.

(4) A minor may possess but not sell or distribute tobacco products or electronic cigarettes in the course of employment, for duties such as stocking shelves or carrying purchases to customers' vehicles.

(5) Penalties for violations by a minor. A violation of this chapter by a minor shall constitute a misdemeanor and shall be punishable by imprisonment in an appropriate facility not exceeding six (6) months, a fine not exceeding three hundred dollars (\$300), or both such fine and imprisonment. The court may, in addition to the penalties provided herein, require the minor and the minor's parents or legal guardian to attend tobacco awareness programs or to perform community service in programs related to tobacco awareness.

SECTION 3. That Section 39-5705, Idaho Code, be, and the same is hereby amended to read as follows:

39-5705. SALE OR DISTRIBUTION OF TOBACCO PRODUCTS AND ELECTRONIC CIGARETTES TO A MINOR. (1) It shall be unlawful to sell, distribute or offer tobacco products or electronic cigarettes to a minor.

(2) It shall be an affirmative defense that the seller of a tobacco product or an electronic cigarette to a minor in violation of this section had requested, examined and reasonably relied upon a photographic identification from such person establishing that person's age as at least eighteen (18) years of age prior to selling such person a tobacco product or an electronic cigarette. The failure of a seller to request and examine photographic identification from a person under eighteen (18) years of age prior to the sale of a tobacco product or an electronic cigarette to such person shall be construed against the seller and form a conclusive basis for the seller's violation of this section.

SECTION 4. That Section 39-5706, Idaho Code, be, and the same is hereby amended to read as follows:

39-5706. VENDOR ASSISTED SALES. (1) It shall be unlawful to sell or distribute tobacco products or electronic cigarettes by any means other than vendor assisted sales where the customer has no access to the product except through the assistance of the seller.

(2) On and after January 1, 2000, it shall be unlawful to sell or distribute tobacco products from a vending machine. ~~From January 1, 1999, to December 31, 1999, vending machines shall be located in a place not accessible to persons under the age of nineteen (19) years.~~

(3) On and after January 1, 2013, it shall be unlawful to sell or distribute electronic cigarettes from a vending machine.

(4) It shall be unlawful to sell or distribute tobacco products or electronic cigarettes from self-service displays.

(45) Stores with tobacco products comprising at least seventy-five percent (75%) of total merchandise are exempt from requiring vendor assisted sales, if minors are not allowed in the store and such prohibition is posted clearly on all entrance doors.

SECTION 5. That Section 39-5708, Idaho Code, be, and the same is hereby amended to read as follows:

39-5708. CIVIL PENALTIES FOR VIOLATIONS OF PERMIT -- CIVIL PENALTY FOR VIOLATIONS RELATING TO ELECTRONIC CIGARETTES. (1) Any permittee who fails to comply with any part of this chapter, or any current state or local law or rule or regulation regarding the sale or distribution of tobacco products shall be subject to a civil penalty as provided in this section or have their permit suspended, pursuant to compliance with the contested case provisions of the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, or both.

(12) If a seller who is not a permittee violates section 39-5705, Idaho Code, and sells or distributes tobacco products or electronic cigarettes to a minor, then the seller shall be fined one hundred dollars (\$100).

(23) In the case of a first violation, the permittee shall be notified in writing of penalties to be levied for further violations.

(34) In the case of a second violation, the permittee shall be fined two hundred dollars (\$200) and shall be notified in writing of penalties to be levied for further violations. For a violation of section 39-5705, Idaho Code, the permittee shall not be fined if the permittee can show that a training program was in place for the employee and that the permittee has a form signed by that employee on file stating that they understand the tobacco laws dealing with minors and the unlawful purchase of tobacco, but the permittee shall be notified in writing of penalties to be levied for any further violations. If no such training is in place, the permittee shall be fined two hundred dollars (\$200).

(45) In the case of a third violation in a two (2) year period, the permittee shall be fined two hundred dollars (\$200) and the permit may be suspended for up to seven (7) days. If the violation is by an employee, at the same location, who was involved in any previous citation for violation, the permittee shall be fined four hundred dollars (\$400). Effective training and employment practices by the permittee, as determined by the department shall be a mitigating factor in determining permit suspension. Tobacco retailers must remove all tobacco products from all areas accessible to or visible to the public while the permit is suspended.

(56) In the case of four (4) or more violations within a two (2) year period, the permittee shall be fined four hundred dollars (\$400) and the permit shall be revoked until such time that the permittee demonstrates an effective training plan to the department, but in no case shall the revocation be

for less than thirty (30) days. Tobacco retailers must remove all tobacco products from all areas accessible to or visible to the public while the permit is revoked.

(67) All moneys collected for violations pursuant to this section shall be remitted to the prevention of minors' access to tobacco fund created in section 39-5711, Idaho Code.

SECTION 6. That Section 39-5710, Idaho Code, be, and the same is hereby amended to read as follows:

39-5710. CONDUCT OF ENFORCEMENT ACTIONS. (1) It is the intent of the legislature that law enforcement agencies, the attorney general, and the department shall enforce this chapter and rules promulgated pursuant thereto in a manner that can reasonably be expected to significantly reduce the extent to which tobacco products and electronic cigarettes are sold or distributed to minors.

(2) Law enforcement agencies may conduct random, unannounced inspections at locations where tobacco products or electronic cigarettes are sold or distributed to ensure compliance with this chapter. A copy of all citations issued under this chapter shall be submitted to the department.

(3) The department shall conduct at least one (1) random, unannounced inspection per year at all locations where tobacco products are sold or distributed at retail to ensure compliance with this chapter. The department shall conduct inspections for minor exempt permittees without the assistance of a minor. The department shall conduct inspections for all other permittees with the assistance of a minor. Each year the department shall conduct random unannounced inspections equal to the number of permittees multiplied by the violation percentage rate reported for the previous year multiplied by a factor of ten (10). Local law enforcement agencies are encouraged to contract with the department to perform these required inspections.

(4) Minors may assist with random, unannounced inspections with the written consent of a parent or legal guardian. When assisting with these inspections, minors shall not provide false identification, nor make any false statement regarding their age.

(5) Citizens may file a written complaint of noncompliance of this chapter with the department, or with a law enforcement agency. Permit holders under 26 U.S.C. section 5712, may file written complaints relating to delivery sales to the department or the attorney general's offices. Complaints shall be investigated and the proper enforcement actions taken.

(6) Within a reasonable time, not later than two (2) business days after an inspection has occurred, a representative of the business inspected shall be informed in writing of the results of the inspection.

(7) The attorney general or his designee, or any person who holds a permit under 26 U.S.C. section 5712, may bring an action in district court in Idaho to prevent or restrain violations of this chapter by any person or by any person controlling such person.

SECTION 7. That Section 39-5713, Idaho Code, be, and the same is hereby amended to read as follows:

39-5713. LOCAL ORDINANCES. Nothing in this chapter shall be construed to prohibit local units of government from passing ordinances which are more stringent than the provisions of this chapter. Provided however, local units of government shall not have the power to require a permit or license for the sale or distribution of tobacco products or electronic cigarettes.

SECTION 8. That Section 39-5714, Idaho Code, be, and the same is hereby amended to read as follows:

39-5714. REQUIREMENTS FOR DELIVERY SALES. (1) No permittee shall make a delivery sale of tobacco products to any individual who is under age eighteen (18) years in this state. No seller shall make a delivery sale of electronic cigarettes to any minor in this state.

(2) Each permittee taking a delivery sale order shall comply with: the age verification requirements set forth in section 39-5715, Idaho Code; the disclosure and notice requirements set forth in section 39-5716, Idaho Code; the shipping requirements set forth in section 39-5717, Idaho Code; the registration and reporting requirements set forth in section 39-5718, Idaho Code; all tax collection requirements provided by title 63, Idaho Code; and all other laws of the state of Idaho generally applicable to sales of tobacco products that occur entirely within Idaho including, but not limited to, those laws imposing excise taxes, sales and use taxes, licensing and tax stamping requirements and escrow or other payment obligations.

SECTION 9. That Section 39-5715, Idaho Code, be, and the same is hereby amended to read as follows:

39-5715. AGE VERIFICATION REQUIREMENTS. (1) No permittee shall mail or ship tobacco products in connection with a delivery sale order unless, before mailing or shipping such tobacco products, the permittee accepting the delivery sale order first obtains from the prospective customer a certification ~~which~~ that includes proof of age that the purchaser is at least eighteen (18) years old, the credit or debit card used for payment has been issued in the purchaser's name, and the address to which the cigarettes are being shipped ~~match~~ matches the credit card company's address for the cardholder.

(2) No seller shall mail or ship an electronic cigarette in connection with a delivery sale order unless, before mailing or shipping such electronic cigarette, the seller accepting the delivery sale order first obtains from the prospective customer a certification that includes proof of age that the purchaser is at least eighteen (18) years old, the credit or debit card used for payment has been issued in the purchaser's name and the address to which the electronic cigarette is being shipped matches the credit or debit card company's address for the cardholder.

SECTION 10. That Section 39-5717, Idaho Code, be, and the same is hereby amended to read as follows:

39-5717. SHIPPING REQUIREMENTS -- TOBACCO PRODUCTS. Each permittee who mails or ships tobacco products in connection with a delivery sale order shall include as part of the shipping documents a clear and conspicuous statement providing as follows:

"TOBACCO PRODUCTS: IDAHO LAW PROHIBITS SHIPPING TO INDIVIDUALS UNDER THE AGE OF EIGHTEEN YEARS, AND REQUIRES THE PAYMENT OF TAXES PURSUANT TO CHAPTER 25, TITLE 63, IDAHO CODE. PERSONS VIOLATING THIS MAY BE CIVILLY AND CRIMINALLY LIABLE."

Anyone delivering any such container distributes tobacco products as defined in section 39-5702(5), Idaho Code, and is subject to the terms and requirements of this chapter. If a permittee taking a delivery sale order also delivers the tobacco products without using a third party delivery service, the permittee shall comply with all the requirements of vendor assisted sales as defined in section 39-5702(146), Idaho Code.

SECTION 11. That Chapter 57, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-5717A, Idaho Code, and to read as follows:

39-5717A. SHIPPING REQUIREMENTS -- ELECTRONIC CIGARETTES. Each seller who mails or ships electronic cigarettes in connection with a delivery sale order shall include as part of the shipping documents a clear and conspicuous statement providing as follows:

"ELECTRONIC CIGARETTES: IDAHO LAW PROHIBITS SHIPPING TO INDIVIDUALS UNDER THE AGE OF EIGHTEEN YEARS. PERSONS VIOLATING THIS MAY BE CIVILLY LIABLE."

If a seller taking a delivery sale order also delivers the electronic cigarettes without using a third party delivery service, the seller shall comply with all the requirements of vendor assisted sales.

Approved March 6, 2012.

CHAPTER 40
(H.B. No. 438)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3029B, IDAHO CODE, TO REVISE THE INCOME TAX CREDIT FOR CAPITAL INVESTMENT; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3029B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029B. INCOME TAX CREDIT FOR CAPITAL INVESTMENT. (1) At the election of the taxpayer there shall be allowed, subject to the applicable limitations provided herein as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to the sum of:

- (a) The tax credit carryovers; and
- (b) The tax credit for the taxable year.
- (2) The maximum allowable amount of the credit for the current taxable year shall be three percent (3%) of the amount of qualified investments made during the taxable year.

(3) As used in this section "qualified investment" means certain property which:

- (a) (i) Is eligible for the federal investment tax credit, as defined in sections 46(c) and 48 of the Internal Revenue Code subject to the limitations provided for certain regulated companies in section 46(f) of the Internal Revenue Code and is not a motor vehicle under eight thousand (8,000) pounds gross weight; or
- (ii) Is qualified broadband equipment as defined in section 63-3029I, Idaho Code; and
- (b) Is acquired, constructed, reconstructed, erected or placed into service after December 31, 1981; and
- (c) Has a situs in Idaho as determined under subsection (9) of this section.

(4) (a) For qualified investments placed in service in 2003 and thereafter, a taxpayer, other than a person whose rate of charge or rate of return, or both, is regulated or limited according to federal or state law, may elect, in lieu of the credit provided by this section, a two (2) year exemption from all taxes on personal property on the qualified investment. The exemption from personal property tax shall apply to the

year the election is filed as provided in this section and the immediately following year. The election provided by this paragraph is available only to a taxpayer whose Idaho taxable income, before application of net operating losses carried back or forward, in the second preceding taxable year in which the investment is placed in service is negative.

(b) The election shall be made in the form prescribed by the state tax commission and shall include a specific description and location of all qualified investments placed into service and located in the jurisdiction of the assessing authority, a designation of the specific assets for which the exemption is claimed, and such other information as the state tax commission may require. The election must be made by including the election form with the listing of personal property required by section 63-302, Idaho Code, or, in the case of operating property assessed under chapter 4, title 63, Idaho Code, with the operator's statement required by section 63-404, Idaho Code. Once made the election is irrevocable. If no election is made, the election is not otherwise available. A copy of the election form must also be attached to the original income tax return due for the taxable year in which the claim was made.

(c) The state tax commission and the various county assessors are authorized to exchange information as necessary to properly coordinate the exemption provided in this subsection. Information disclosed to county officials under this subsection may be used only to determine the validity or amount of a taxpayer's entitlement to the exemption provided in this section, and is not otherwise subject to public disclosure as provided in section 9-340D, Idaho Code.

(d) In the event that an investment in regard to which the election under this subsection was made is determined by the state tax commission:

- (i) To not be a qualified investment, or
- (ii) To have ceased to qualify during the recapture period, or
- (iii) To be otherwise not qualified for the election,

the taxpayer shall be subject to recapture of the property tax benefit.

(e) The benefit to be recaptured in subsection (4) (d) of this section shall be computed in the manner required in subsection (7) of this section and such recapture amount shall be subject to assessment in the same manner as a deficiency in tax under this chapter. For purposes of calculating the recapture, the property tax benefit shall be:

- (i) In the case of locally assessed property located in a single county or nonapportioned centrally assessed property, the market value of exempted property times the average property tax levy for that county in the year or years for which the exemption was claimed.
- (ii) In the case of other centrally assessed property and property located in more than one (1) county, the market value of exempted property times the average urban property tax levy of the state as determined by the state tax commission in each of the years for which the exemption was claimed.

(f) In the event that a recapture of the exemption is required under this subsection (4), the person claiming the exemption shall report the event to the state tax commission in the manner the state tax commission may by rule require. The report shall be due no later than the due date of that person's income tax return under this chapter for the taxable year in which the event occurs. The recapture amount is due and payable with the report. Any amount of recapture not paid is a deficiency within the meaning of section 63-3044, Idaho Code.

(g) All moneys collected by the state tax commission pursuant to this subsection, which amounts are continuously appropriated for this purpose, shall be deposited with the state treasurer and placed in the state refund account, as provided by section 63-3067, Idaho Code,

to be remitted to the county within which the property was located that was not a qualified investment or ceased to qualify during the recapture period. The county shall distribute this remittance to all appropriate taxing districts based on the proportion each appropriate taxing district's levy is to the total of all the levies of the taxing districts for the tax code area where the property was located for each year the exemption was granted. If any taxing district is dissolved or disincorporated, the proportionate share of the remittance to be distributed to that taxing district shall be deposited in the county current expense fund.

(h) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this subsection shall be treated as property tax revenue by taxing districts.

(5) Notwithstanding the provisions of subsections (1) and (2) of this section, the amount of the credit allowed shall not exceed fifty percent (50%) of the tax liability of the taxpayer. The tax liability of the taxpayer shall be the tax after deducting the credit allowed by section 63-3029, Idaho Code.

(6) If the sum of credit carryovers from the credit allowed by subsection (2) of this section and the amount of credit for the taxable year from the credit allowed by subsection (2) of this section exceed the limitation imposed by subsection (5) of this section for the current taxable year, the excess attributable to the current taxable year's credit shall be an investment credit carryover to the fourteen (14) succeeding taxable years so long as the qualified investment property for which the unused credit was granted otherwise remains a qualified investment as determined under subsection (3) of this section in each of the taxable years during the recapture period. In the case of a group of corporations filing a combined report under section 63-3027, Idaho Code, or sections 63-3027B through 63-3027E, Idaho Code, credit earned by one (1) member of the group but not used by that member may be used by another member of the group, subject to the provisions of subsection (5) of this section, instead of carried over. The entire amount of unused credit shall be carried forward to the earliest of the succeeding years, wherein the oldest available unused credit shall be used first, ~~so long as the qualified investment property for which the unused credit was granted still maintains Idaho situs.~~ For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member who earned the credit is no longer included in the combined group.

(7) Any recapture of the credit allowed by subsection (2) of this section on property disposed of or ceasing to qualify, prior to the close of the recapture period, shall be determined according to the applicable recapture provisions of the Internal Revenue Code. In the case of a unitary group of corporations, the increase in tax due to the recapture of investment tax credit must be reported by the member of the group who earned the credit regardless of which member claimed the credit against tax.

(8) For the purpose of determining whether property placed in service is a "qualified investment" as defined in subsection (3) of this section, the provisions of section 49 of the Internal Revenue Code shall be disregarded. "Qualified investment" shall not include any amount for which a deduction is allowed under section 168(k) or section 179 of the Internal Revenue Code in computing Idaho taxable income.

(9) For purposes of this section, property has a situs in Idaho during a taxable year if it is used in Idaho at any time during the taxable year. Property not used in Idaho during a taxable year does not have a situs in Idaho in the taxable year during which the property is not used in Idaho or in any subsequent taxable year. ~~No credit or carryover of credit is permitted under this section if the credit or carryover relates to property that does not have a situs in Idaho during the taxable year for which the credit or carryover is claimed.~~ The Idaho situs of property must be established by records

maintained by the taxpayer which are created reasonably contemporaneously with the use of the property.

(10) In the case of property used both in and outside Idaho, the taxpayer, electing to claim the credit provided in this section, must elect to compute the qualified investment in property with a situs in Idaho for all such investments first qualifying during that year in one (1), but only one (1), of the following ways:

(a) The amount of each qualified investment in a specific asset shall be separately computed based on the percentage of the actual use of the property in Idaho by using a measure of the use, such as total miles or total machine hours, that most accurately reflects the beneficial use during the taxable year in which it is first acquired, constructed, reconstructed, erected or placed into service; provided, that the asset is placed in service more than ninety (90) days before the end of the taxable year. In the case of assets acquired, constructed, reconstructed, erected or placed into service within ninety (90) days prior to the end of the taxable year in which the investment first qualifies, the measure of the use of that asset within Idaho for that year shall be based upon the percentage of use in Idaho during the first ninety (90) days of use of the asset;

(b) The investment in qualified property used both inside and outside Idaho during the taxable year in which it is first acquired, constructed, reconstructed, erected or placed into service shall be multiplied by the percent of the investment that would be included in the numerator of the Idaho property factor determined pursuant to section 63-3027, Idaho Code, for the same year.

(11) References to sections 46, 48 and 49 of the "Internal Revenue Code" mean those sections as they existed in the Internal Revenue Code of 1986 prior to November 5, 1990.

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, 2012.

Approved March 6, 2012.

CHAPTER 41
(H.B. No. 446)

AN ACT

RELATING TO STATE PARKS; AMENDING SECTION 49-401B, IDAHO CODE, TO PROVIDE THAT APPLICATIONS FOR MOTOR VEHICLE REGISTRATION SHALL CONTAIN A PROVISION ALLOWING AN OWNER TO CHOOSE TO PARTICIPATE IN THE IDAHO STATE PARKS PASSPORT PROGRAM, TO PROVIDE THAT FEES COLLECTED FOR THE IDAHO STATE PARKS PASSPORT PROGRAM SHALL BE SEPARATELY IDENTIFIED AND ACCOUNTED FOR, TO PROVIDE FOR PAYMENT TO THE STATE TREASURER AND TO PROVIDE FOR THE DEPOSIT OF SUCH FEES INTO THE PARK AND RECREATION FUND; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE FOR THE VOLUNTARY PAYMENT OF A FEE TO PURCHASE AN IDAHO STATE PARKS PASSPORT, TO PROVIDE FOR FEES FOR ONE OR TWO YEAR PERIODS OF TIME, TO PROVIDE FOR DEPOSIT OF FEES INTO THE PARK AND RECREATION FUND WHICH SHALL BE SUBJECT TO APPROPRIATION AND TO PROVIDE THAT FEES ASSOCIATED WITH IDAHO STATE PARKS PASSPORTS SHALL NOT BE CONSIDERED MOTOR VEHICLE REGISTRATION FEES; AND AMENDING CHAPTER 42, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4223A, IDAHO

CODE, TO PROVIDE FOR THE IDAHO STATE PARKS PASSPORT PROGRAM, TO PROVIDE FOR FEES AND TO PROVIDE THAT THE DEPARTMENT SHALL NOT BE PRECLUDED FROM CONTINUING TO SELL CERTAIN DAILY AND ANNUAL MOTOR VEHICLE ENTRANCE PASSES.

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

SECTION 1. 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(11), 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(11), 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 2. 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 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.

(8) 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.

(9) 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 and 49-420K, 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.

(10) 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.

(11) 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 3. That Chapter 42, 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 67-4223A, Idaho Code, and to read as follows:

67-4223A. IDAHO STATE PARKS PASSPORT PROGRAM -- FEE. Upon payment of the fee as provided in section 49-402(11), Idaho Code, the purchaser shall be authorized to enter all Idaho state parks without paying the motor vehicle entrance fee for either a one (1) or two (2) year period of time, dependent on the fee paid by the purchaser. The provisions of this section shall not preclude the department from continuing to sell daily and annual motor vehicle entrance passes to Idaho residents who choose not to participate in the Idaho state parks passport program and to any nonresident visiting Idaho state parks.

Approved March 6, 2012.

CHAPTER 42
(H.B. No. 469)

AN ACT

RELATING TO CONVEYANCES IN BUILDINGS; AMENDING SECTION 39-8606, IDAHO CODE, TO REVISE REGULATION AND STANDARDS FOR CERTAIN BUILDINGS 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 39-8606, Idaho Code, be, and the same is hereby amended to read as follows:

39-8606. SCOPE -- EXEMPTIONS. (a) The provisions of this chapter shall apply to all conveyances within the state of Idaho except the following or as provided in subsection (b) of this section:

- (1) Conveyances located in private residences;
- (2) Conveyances in ~~federally-owned~~ federally owned facilities;
- (3) Conveyances permanently removed from service or made effectively inoperative; and
- (4) Conveyances erected temporarily for use only during construction work that are of such a design that they must be operated by a workman stationed at the hoisting machine.

(b) Conveyances erected before July 1, 2004, pursuant to section 39-8614(3), Idaho Code, are subject only to the requirements of the safety code for existing elevators and escalators (ASME A17.3). Such conveyances, however, shall also be exempted from any requirements of that ASME A17.3 requiring conveyances to be modified with upgrades or replacements that would fall within the definition of "modernization" as defined in section 39-8603, Idaho Code, or to be modified with additional safety features falling within the definition of "alteration" unless:

- (1) The total cost of the modification is less than five thousand dollars (\$5,000); or
- (2) The conveyance is not situated in a privately owned business facility; or
- (3) The facility in which the conveyance is located is being altered, as defined within the provisions and guidelines applicable to the Americans with disabilities act of 1990 and amendments thereto, provided

that said alterations are significant in that they affect the accessibility of the majority of floor space on at least one (1) floor of the building.

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

Approved March 6, 2012.

CHAPTER 43
(H.B. No. 389)

AN ACT

RELATING TO WEIGHTS AND MEASURES; AMENDING SECTION 71-409, IDAHO CODE, TO PROVIDE THAT CERTAIN FEES SHALL BE DEPOSITED IN THE WEIGHTS AND MEASURES DEDICATED FUND.

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

SECTION 1. That Section 71-409, Idaho Code, be, and the same is hereby amended to read as follows:

71-409. DISPOSITION OF FEES. All fees collected by the director of the department of agriculture under the provisions of this act shall be deposited by him ~~in the state treasury to the credit of the general in the weights and measures dedicated fund of the state treasury.~~

Approved March 8, 2012.

CHAPTER 44
(H.B. No. 393, As Amended)

AN ACT

RELATING TO RURAL HEALTH CARE ACCESS AND PHYSICIAN INCENTIVE; AMENDING SECTION 33-3723, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE, TO PROVIDE FOR THE ADMINISTRATION OF THE FUND BY THE DEPARTMENT OF HEALTH AND WELFARE, TO PROVIDE FOR MONEYS PAYABLE INTO THE FUND AND TO PROVIDE FOR INCOME, EARNINGS AND COSTS OF ADMINISTRATION; REPEALING SECTION 33-3724, IDAHO CODE, RELATING TO THE RURAL PHYSICIAN INCENTIVE FUND; REPEALING SECTION 33-3725, IDAHO CODE, RELATING TO INCENTIVE PAYMENTS FROM THE RURAL PHYSICIAN INCENTIVE FUND; AMENDING SECTION 39-5902, IDAHO CODE, TO PROVIDE FOR THE RURAL PHYSICIAN INCENTIVE FUND, TO PROVIDE FOR MONEYS IN THE FUND, TO PROVIDE THAT MONEYS IN THE FUND ARE HEREBY APPROPRIATED AND TO PROVIDE FOR USES OF THE FUND; AMENDING SECTION 39-5903, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE TERMS; AMENDING SECTION 39-5904, IDAHO CODE, TO PROVIDE FOR THE JOINT HEALTH CARE ACCESS AND PHYSICIAN INCENTIVE GRANT REVIEW BOARD AND TO PROVIDE FOR THE COMPOSITION OF THE BOARD; AMENDING SECTION 39-5905, IDAHO CODE, TO PROVIDE FOR THE SCOPE OF RURAL HEALTH CARE ACCESS AND PHYSICIAN INCENTIVE GRANT SUPPORT, TO PROVIDE FOR GRANTS TO PHYSICIANS FOR QUALIFIED MEDICAL EDUCATION DEBT REPAYMENTS AND TO PROVIDE A PURPOSE FOR SUCH PAYMENTS, TO PROVIDE FOR RURAL HEALTH CARE ACCESS GRANT AWARDS, TO REVISE PROVISIONS RELATING TO THE RETURN OF UNUSED GRANT FUNDS AND TO PROVIDE FOR PHYSICIAN INCENTIVE GRANT AWARDS; AMENDING SECTION 39-5906, IDAHO CODE, TO PROVIDE FOR CATEGORIES OF RURAL HEALTH CARE

ACCESS AND PHYSICIAN INCENTIVE GRANTS, TO PROVIDE FOR THE THREE CATEGORIES OF RURAL HEALTH CARE ACCESS GRANT ASSISTANCE, TO CLARIFY CERTAIN ACTIVITIES THAT FUNDS MAY BE USED FOR AND TO PROVIDE A LIMITATION ON THE USE OF PHYSICIAN INCENTIVE GRANTS; AMENDING SECTION 39-5907, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR RURAL HEALTH CARE ACCESS GRANT AWARDS AND TO PROVIDE REQUIREMENTS FOR RURAL PHYSICIAN INCENTIVE GRANT AWARDS; AMENDING SECTION 39-5908, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR RURAL HEALTH CARE ACCESS AND PHYSICIAN INCENTIVE APPLICATIONS AND TO PROVIDE FOR SOURCES OF INFORMATION ASSOCIATED WITH APPLICATIONS; AMENDING SECTION 39-5909, IDAHO CODE, TO PROVIDE FOR THE RURAL HEALTH CARE ACCESS AND PHYSICIAN INCENTIVE GRANT AWARD SCHEDULE, TO PROVIDE FOR CERTAIN DUTIES OF THE RURAL HEALTH CARE ACCESS AND PHYSICIAN INCENTIVE PROGRAM MANAGER, TO PROVIDE FOR THE DISBURSAL OF APPROVED RURAL HEALTH CARE ACCESS GRANTS AND TO PROVIDE FOR THE DISBURSAL OF APPROVED RURAL PHYSICIAN INCENTIVE GRANTS; AMENDING SECTION 39-5910, IDAHO CODE, TO PROVIDE CRITERIA FOR RURAL HEALTH CARE ACCESS AWARDS AND PHYSICIAN INCENTIVE AWARDS AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 39-5911, IDAHO CODE, RELATING TO NEGOTIATION; AND AMENDING SECTION 39-5912, IDAHO CODE, TO PROVIDE FOR THE RETURN OF CERTAIN FUNDS TO THE RURAL HEALTH CARE ACCESS AND PHYSICIAN INCENTIVE GRANT PROGRAM.

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

SECTION 1. That Section 33-3723, Idaho Code, be, and the same is hereby amended to read as follows:

33-3723. RURAL PHYSICIAN INCENTIVE FEE ASSESSMENT. The state board of education may assess a fee to students preparing to be physicians in the fields of medicine or osteopathic medicine who are supported by the state pursuant to an interstate compact for a professional education program in those fields, as those fields are defined by the compact. The fee may not exceed an amount equal to four percent (4%) of the annual average medicine support fee paid by the state. The fee must be assessed by the board and deposited in the rural physician incentive fund established in section 33-3724 39-5902, Idaho Code, to be administered by the department of health and welfare. Moneys are also payable into the fund from state appropriations, private contributions, gifts and grants and other sources. Income and earnings on the fund shall be returned to the fund. The expenses of administering the physician incentive fund portion of the fund shall not exceed ten percent (10%) of the annual fees assessed pursuant to this section.

SECTION 2. That Section 33-3724, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 33-3725, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 39-5902, Idaho Code, be, and the same is hereby amended to read as follows:

39-5902. RURAL HEALTH CARE ACCESS AND PHYSICIAN INCENTIVE FUNDS. (1) There is hereby created in the state treasury a fund known as the "Rural Health Care Access Fund." Subject to appropriation by the legislature, moneys in the fund shall be used exclusively for the purpose of grants for improving access to primary care medical services in areas designated as primary care health professional shortage areas and medically underserved areas and their administration pursuant to this chapter.

(2) There is hereby created in the state treasury a fund known as the "Rural Physician Incentive Fund." Money is payable into the fund as provided for in section 33-3723, Idaho Code. The moneys in the rural physician incen-

tive fund are hereby appropriated for the uses of the fund. The state department of health and welfare may use the moneys in the fund to pay:

(a) The educational debts of rural physicians who practice primary care medicine in medically underserved areas of the state that demonstrate a need for assistance in physician recruitment; and

(b) The expenses of administering the rural physician incentive program. The expenses of administering the program shall not exceed ten percent (10%) of the annual fees assessed pursuant to section 33-3723, Idaho Code.

SECTION 5. That Section 39-5903, Idaho Code, be, and the same is hereby amended to read as follows:

39-5903. DEFINITIONS. As used in this chapter:

(1) "Applicant" means an entity submitting documents required by the rural health care access program department for the purpose of requesting a grant from the rural health care access fund and physician incentive program.

(2) "Application period" means the time period from July 1 to August 30 of the state fiscal year for which funding is requested.

(3) "Approval" means written notification that the application will be awarded funding through the rural health care access fund and physician incentive program.

(4) "Board" means the joint health care access program and physician incentive grant review board.

(5) "Community sponsoring organization" means a hospital, medical clinic or other medical organization that is located in an eligible area and employs physicians for purposes of providing primary care medical services to patients.

(6) "Department" means the department of health and welfare.

(67) "Director" means the director of the department of health and welfare.

(8) "Eligible area for physician incentive grants" means a medically underserved area of Idaho, further defined to mean an area designated by the United States secretary of health and human services as a health professional shortage area.

(79) "Grant period" means the time immediately following the application period from July 1 through June 30 (state fiscal year) for which funding is granted.

(810) "Nurse practitioner" means a health care provider licensed pursuant to chapter 14, title 54, Idaho Code.

(911) "Oral health care provider" means a dentist or dental hygienist licensed pursuant to chapter 9, title 54, Idaho Code.

(102) "Physician assistant" means a health care provider licensed pursuant to chapter 18, title 54, Idaho Code.

(113) "Primary care," for purposes of rural health care access grants, means the provision of professional comprehensive health services, including oral health care services, that includes health education and disease prevention, initial assessment of health problems, treatment of acute care and chronic health problems, and the overall management of an individual's or family's health care services as provided by an Idaho licensed internist, obstetrician, gynecologist, pediatrician, family practitioner, general practitioner, dentist, dental hygienist, nurse practitioner or physician assistant. It provides the initial contact for health services and referral for secondary and tertiary care.

(124) "Primary care health professional shortage area" means a geographic area or population group which the U.S. secretary of health and human services has determined is underserved by primary care health professional(s).

(15) "Primary care medicine," for purposes of rural physician incentive grants, means family medicine, general internal medicine and general pediatrics. Provided however, if there is a demonstrated high level of need in an eligible area as determined by the board, it may also include obstetrics and gynecology, general psychiatry, general surgery and emergency medicine.

(136) "Medically underserved area" means a geographic area which the U.S. secretary of health and human services has determined is underserved by primary care health professional(s).

(17) "Qualified medical education debt" means a debt with a financial aid program or financial institution incurred to meet the educational costs of attending a medical school.

(148) "Rural health care access grant" means a grant awarded pursuant to this chapter.

(159) "Rural health care access and physician incentive program" means the program that administers the rural health care access and physician incentive funds.

(20) "Rural physician," for purposes of physician incentive grants, means a licensed Idaho physician, whether a medical doctor or doctor of osteopathic medicine, who spends a minimum of twenty-eight (28) hours per week, on average, providing primary care medicine services to patients in an eligible area.

(21) "Rural physician incentive fee" means the fee assessed by the state to students preparing to be physicians in the fields of medicine or osteopathic medicine who are supported by the state pursuant to an interstate compact for professional education in those fields, as those fields are defined by the compact.

(22) "Rural physician incentive fund" means the special revenue account in the state treasury created pursuant to section 39-5902, Idaho Code, relating to the rural health care access and physician incentive grant program.

SECTION 6. That Section 39-5904, Idaho Code, be, and the same is hereby amended to read as follows:

39-5904. JOINT HEALTH CARE ACCESS AND PHYSICIAN INCENTIVE GRANT REVIEW BOARD. (1) The director shall appoint the members of a board to be known as the joint health care access and physician incentive grant review board, who shall serve at the pleasure of the director. Board members shall not be compensated, but shall be reimbursed for travel expenses incurred for attendance at board meetings.

(2) The board shall meet at least annually, for the purposes described in this chapter.

(3) The board shall be composed of the following: a representative from the Idaho academy of family physicians, a representative from the nurse practitioner conference group, a rural hospital administrator, a representative from the physician assistant association, ~~the health resources section supervisor~~ a representative from the office of rural health, division of public health, a faculty member from one (1) of the Idaho family medicine residency programs, an Idaho medical association representative, an Idaho hospital association representative, an Idaho primary care association representative, an Idaho area health education center representative, a medical student program administrator representative from each state supported program, and an Idaho association of counties representative.

(4) Appointments to the board shall be for three (3) years. Board members may be reappointed at the end of each three (3) year period. Initial appointments shall be staggered in such a manner that approximately one-third (1/3) are appointed for one (1) year, one-third (1/3) are appointed for two (2) years, and one-third (1/3) are appointed for three (3) years.

(5) A majority of the board members constitutes a quorum for the transaction of business. A majority vote is required by the quorum in finalizing decisions.

SECTION 7. That Section 39-5905, Idaho Code, be, and the same is hereby amended to read as follows:

39-5905. SCOPE OF RURAL HEALTH CARE ACCESS AND PHYSICIAN INCENTIVE GRANT SUPPORT. The board may award grants, in accordance with the procedures and criteria in this chapter, to governmental and nonprofit entities and to physicians for qualified medical education debt repayments for the purpose of improving access to primary health care services to rural and underserved areas and for physician loan repayment.

(1) Rural health care access grant awards:

(a) Individual grant awards will be limited to a total of thirty-five thousand dollars (\$35,000), direct and indirect costs, per year.

(2b) Applicants may propose projects for funding for up to three (3) years.

(ai) Continued funding for projects beyond the first grant year, years two (2) and three (3), shall be subject to the appropriation of funds and grantee performance.

(bii) No project may be funded for more than a total of three (3) years.

(eiii) Any unused grant funds shall be returned to the rural health care access fund by the applicant no later than August 30 June 1 of the grant period.

(3c) No funds awarded under a grant may be used for purchase, construction, renovation or improvement of real property or for projects which are solely or predominantly designed for the purchase of equipment. Use of funds for the purchase of equipment may be allowed when such equipment is an essential component of a program. However, the purchase of equipment may not represent more than forty percent (40%) of the total annual share of a proposal. Indirect costs shall not exceed fifteen percent (15%) of the total project.

(2) Physician incentive grant awards:

(a) A physician selected to receive a rural physician incentive grant award shall be entitled to receive qualified medical education debt repayments for a period not to exceed four (4) years in such amount as is determined annually.

(b) Award amounts shall be established annually based on recommendations of the joint health care access and physician incentive grant review board utilizing such factors as availability of funding, the number of new applicants and the hours an award recipient will devote to providing primary care medicine in an eligible area.

(c) The award shall not exceed the qualified medical education debt incurred by the recipient, and the maximum amount of educational debt repayments that a rural physician may receive shall be fifty thousand dollars (\$50,000) over such four (4) year period.

(d) All physician incentive grant awards shall be paid directly from the physician incentive fund to the physician receiving the award.

(e) The total of all awards from the rural physician incentive fund contractually committed in a year shall not exceed the annual amount deposited in the fund that same year.

(f) An award payment to a recipient in a single year is not guaranteed or assured in subsequent years and may be increased or reduced.

(g) Any unused grant funds shall be returned to the physician incentive fund by the applicant no later than June 1 of the grant period.

SECTION 8. That Section 39-5906, Idaho Code, be, and the same is hereby amended to read as follows:

39-5906. CATEGORIES OF RURAL HEALTH CARE ACCESS AND PHYSICIAN INCENTIVE GRANTS. (1) There are ~~four~~ three (43) categories of rural health care access grant assistance:

~~(1) Recruitment and retention of primary care providers -- Grant funds may be used for loan repayment for primary care providers, recruitment incentive, and/or reimbursement of relocation expenses for primary care providers.~~

(2a) Telehealth projects -- Grant funds may be used for projects that involve the use of telecommunications technologies for distance learning and for projects to improve access to care for rural communities.

(3b) Community development projects -- Grant funds may be used for health needs assessments, marketplace analysis, financial analysis and strategic planning activities.

(4c) Other -- Communities may choose to apply for funds for activities that they have identified and determined will help to improve access to primary care in rural areas, including loan repayment for primary care providers, recruitment incentive, and/or reimbursement of relocation expenses for primary care providers.

(2) Physician incentive grants: Grants are limited to loan repayment for physicians providing primary care medicine in eligible areas.

SECTION 9. That Section 39-5907, Idaho Code, be, and the same is hereby amended to read as follows:

39-5907. ELIGIBILITY FOR GRANTS. Applicants must meet the following requirements:

(1) Rural health care access grant awards:

(a) The geographical area to be benefitted must be located in a current primary care or dental health professional shortage area or a medically underserved area.

(2b) The applicant must be a governmental entity or a nonprofit entity registered with the Idaho secretary of state.

(2) Rural physician incentive grant awards:

(a) A physician who meets the following requirements is eligible to apply for a rural physician incentive grant award:

(i) During the period covered by the award, the physician must be a rural physician providing primary care medicine in an eligible area. A physician may provide patient care services in primary care medicine in more than one (1) eligible area;

(ii) The physician must be a doctor of medicine or doctor of osteopathic medicine and have completed an accreditation council of graduate medical education or American osteopathic association residency;

(iii) The physician must be Idaho medical board certified/board eligible, be eligible for an unrestricted Idaho medical license and be able to meet the medical staffing requirements of the sponsoring organization when applicable; and

(iv) The physician must accept medicare and medicaid patients within the capacity of his or her primary care medicine practice.

(b) Physicians who have paid the fee authorized in section 33-3723, Idaho Code, shall be given a preference over other applicants.

(c) A physician shall not be entitled to receive an award under this program if the physician is receiving payments for purposes of repaying qualified medical education debt from another state or from a federal debt repayment program.

SECTION 10. That Section 39-5908, Idaho Code, be, and the same is hereby amended to read as follows:

39-5908. RURAL HEALTH CARE ACCESS AND PHYSICIAN INCENTIVE APPLICATIONS REQUIRED. (1) A completed rural health care access grant application must be submitted by the applicant for the purpose of requesting a grant or contract, on or before the conclusion of the application period specified for the appropriate grant cycle. All applications must include the required information.

(2) Each application The grant application and any attachments submitted by the applicant shall be the primary source of information for awarding a grant. Additionally, the board may request and/or use other information known to it in making its decision.

(3) All rural health care access applications shall include:

- (a) Geographical area of need;
- (b) Individual or entity requesting funds;
- (c) Narrative description of the methods to be used to address needs and demonstrate the potential of the project to improve access to health care services in the community;
- (d) Identification of measurable goals, objectives to be used to reach the goals, and the resources necessary to complete each activity;
- (e) Estimation of how long it will take to accomplish the individual activities of the project;
- (f) Demonstrated community and organizational support for the project;
- (g) County or local governmental endorsement;
- (h) Operating budget including:
 - (i) Proportion of operating budget, if any, the applicant proposes to match with the rural health care access grant funds;
 - (ii) Documentation of one (1) or more vendor price quotes for all proposed equipment purchases;
 - (iii) Contact person for verification of fiscal information;
- (i) Federal tax identification number; and
- (j) Other information required by the board.

(34) ~~All applications must include the required information~~ All rural physician incentive applications shall:

- (a) Be on a form prescribed by the rural health care access and physician incentive board; and
- (b) Include a letter of support along with supporting documentation.

~~(4) The grant application and any attachments submitted by the applicant shall be the primary source of information for awarding a grant. Additionally, the board may request and/or use other information known to them in making their decision.~~

SECTION 11. That Section 39-5909, Idaho Code, be, and the same is hereby amended to read as follows:

39-5909. RURAL HEALTH CARE ACCESS AND PHYSICIAN INCENTIVE GRANT AWARD SCHEDULE. The board shall conduct the grant process in accordance with the following schedule:

(1) The rural health care access director and physician incentive program manager will generate, and make available, a list of areas eligible for potential grant assistance no later than May 1 prior to the application period.

(2) The rural health care access director and physician incentive program manager shall develop an application form and make guidance available no later than July 1 which shall initiate the application period prior to the grant period.

(3) The completed application shall be submitted no later than August 30 of the application period.

(4) The board shall issue notification to every applicant regarding the disposition of their grant request by October 30 prior to the grant period.

(5) Funds for approved rural health care access grants shall be disbursed during November of that grant period or over the course of the current grant year as funds become available.

(6) Funds for approved rural physician incentive grants shall be disbursed upon completion of six (6) months of service in an eligible area during the initial grant period and annually thereafter upon completion of a twelve (12) month term of service in an eligible area.

SECTION 12. That Section 39-5910, Idaho Code, be, and the same is hereby amended to read as follows:

39-5910. RURAL HEALTH CARE ACCESS AND PHYSICIAN INCENTIVE AWARD CRITERIA. The board shall award grants (1) Rural health care access awards shall be made by the board based on the following weighted criteria:

(1a) Background of bidding organization. The applicant must show adequate experience, knowledge, and qualifications to adequately perform the scope of work: weight = 10%;

(2b) Community and organizational support. The applicant must demonstrate community and organizational support for the project: weight = 15%;

(3c) Specificity and clarity of scope of project. The proposal will be evaluated based on the extent to which the goals and objectives are specific, measurable, and relevant to the purpose of the proposal and the activities planned to accomplish those objectives are germane and can be sustained beyond the grant time frame. Additionally, there must be a demonstrated need for and lack of availability of funds from other sources to address the primary health care needs of the defined area of service: weight = 35%;

(4d) Monitoring and evaluation. The proposal will be evaluated based on the extent to which the monitoring and evaluation system will document program or activity progress and measure effectiveness: weight = 15%;

(5e) Budget. The proposal will be evaluated based on the extent to which a detailed itemized budget and justification are consistent with stated objectives and planned program activities: weight = 25%.

(2) Physician incentive awards shall be made by the board based on ranking and priority of applicants in accordance with the following criteria:

(a) (i) Priority selection for physicians who were Idaho resident students and were assessed the rural physician incentive fee and paid into the fund, followed by physicians who were Idaho residents prior to completing medical school out of state and who did not contribute to the fund, followed by physicians from other states who were not Idaho residents;

(ii) Demonstrated physician shortage in the eligible area to be benefitted;

(iii) Demonstrated physician recruiting difficulties in the eligible area to be benefitted;

(iv) Support of the medical community and community leaders in the eligible area.

(b) In reviewing and weighing criteria, all relevant factors shall be considered.

(c) If a physician selected for an award of debt payments does not accept the award in the manner provided pursuant to the provisions of this chapter, then the award shall be awarded to the next eligible applicant who has not received an award.

(d) The physician is liable for the payments if the physician ceases to practice in the eligible area during the contract period.

SECTION 13. That Section 39-5911, Idaho Code, be, and the same is hereby repealed.

SECTION 14. That Section 39-5912, Idaho Code, be, and the same is hereby amended to read as follows:

39-5912. FRAUDULENT INFORMATION ON GRANT APPLICATION. Providing false information on any application or document submitted under this statute is a misdemeanor and grounds for declaring the applicant ineligible. Any and all funds determined to have been acquired on the basis of fraudulent information must be returned to the rural health care access fund and physician incentive grant program. This section shall not limit other remedies which may be available for the filing of false or fraudulent applications.

Approved March 8, 2012.

CHAPTER 45
(H.B. No. 455)

AN ACT

RELATING TO DIVORCE ACTIONS; AMENDING SECTION 32-717D, IDAHO CODE, TO DELETE PROVISIONS PROHIBITING A CERTAIN RETAINER AND TO REVISE LANGUAGE REGARDING PAYMENT OF CERTAIN FEES AND COSTS OF THE PARENTING COORDINATOR.

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

SECTION 1. That Section 32-717D, Idaho Code, be, and the same is hereby amended to read as follows:

32-717D. PARENTING COORDINATOR. (1) Provided that a court has entered a judgment or an order establishing child custody in a case, the court may order the appointment of a parenting coordinator to perform such duties as authorized by the court, consistent with any controlling judgment or order of a court relating to the child or children of the parties, and as set forth within the order of appointment. The court shall direct the parenting coordinator to provide a status report to the court at a time and in a manner as determined by the court. Provided however, that the court shall require the parenting coordinator to provide a minimum of one (1) status report to the court at least once every six (6) months. At any time during the period of appointment, the court, on its own initiative, or upon request of the parenting coordinator or either party, may hold a status conference to review the continued appointment of the coordinator and/or the status of the case.

(2) Qualification, selection, appointment, termination of appointment, and prescribed duties and responsibilities of a parenting coordinator shall be based upon standards and criteria as adopted by the Idaho supreme court. Provided however, that standards and criteria for qualification and selection of a parenting coordinator, as adopted by the Idaho supreme court, shall not apply to a parenting coordinator selected and agreed to by the parties. In addition, as a condition of any appointment, a parenting coordinator shall:

- (a) Be neutral to the dispute and to the parties;
- (b) Be either selected pursuant to agreement of the parties or appointed by the court; and
- (c) Prior to any appointment, and at their own cost, have submitted to a criminal history check through any law enforcement office in the state providing such service. The criminal history check shall include a statewide criminal identification bureau, the federal bureau of investigation criminal history check, the national crime information center

and the statewide sex offender register. A record of all background checks shall be maintained in the office of the supreme court of the state of Idaho with a copy going to the applicant and shall be available for review by the court considering a parenting coordinator appointment prior to an appointment; and

~~(d) Agree to appointment without requiring the parties to pay a retainer for services. Provided however, that any dispute regarding payment of the fees and costs of the parenting coordinator, shall be subject to review by the court upon request of the parenting coordinator or either party.~~

(3) In addition to those duties as authorized by the court pursuant to the order of appointment, the responsibilities of a parenting coordinator shall include collaborative dispute resolution in parenting. The parenting coordinator shall act to empower the parties in resuming parenting controls and decision-making, and minimize the degree of conflict between the parties for the best interests of the children.

(4) The court shall allocate the fees and costs of the parenting coordinator between the parties and may enter an order against either or both parties for the reasonable costs, fees and disbursements of the parenting coordinator. Any dispute regarding payment of the fees and costs of the parenting coordinator shall be subject to review by the court upon request of the parenting coordinator or either party.

Approved March 8, 2012.

CHAPTER 46
(H.B. No. 475)

AN ACT

RELATING TO SUSPENSION OF JUDGMENT AND SENTENCE; AMENDING SECTION 19-2601, IDAHO CODE, TO PROVIDE THE COURT AUTHORITY TO EXTEND A PERIOD OF PROBATION FOR CERTAIN PERSONS; AND AMENDING SECTION 19-3921, IDAHO CODE, TO PROVIDE THE COURT AUTHORITY TO EXTEND A PERIOD OF PROBATION FOR CERTAIN PERSONS.

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

SECTION 1. That Section 19-2601, Idaho Code, be, and the same is hereby amended to read as follows:

19-2601. COMMUTATION, SUSPENSION, WITHHOLDING OF SENTENCE -- PROBATION. Whenever any person shall have been convicted, or enter a plea of guilty, in any district court of the state of Idaho, of or to any crime against the laws of the state, except those of treason or murder, the court in its discretion, may:

1. Commute the sentence and confine the defendant in the county jail, or, if the defendant is of proper age, commit the defendant to the custody of the state department of juvenile corrections; or

2. Suspend the execution of the judgment at the time of judgment or at any time during the term of a sentence in the county jail and place the defendant on probation under such terms and conditions as it deems necessary and expedient; or

3. Withhold judgment on such terms and for such time as it may prescribe and may place the defendant on probation; or

4. Suspend the execution of the judgment at any time during the first three hundred sixty-five (365) days of a sentence to the custody of the state board of correction. The court shall retain jurisdiction over the prisoner for a period of up to the first three hundred sixty-five (365) days or, if

the prisoner is a juvenile, until the juvenile reaches twenty-one (21) years of age. During the period of retained jurisdiction, the state board of correction shall be responsible for determining the placement of the prisoner and such education, programming and treatment as it determines to be appropriate. The prisoner will remain committed to the board of correction if not affirmatively placed on probation by the court. In extraordinary circumstances, where the court concludes that it is unable to obtain and evaluate the relevant information within the period of retained jurisdiction, or where the court concludes that a hearing is required and is unable to obtain the defendant's presence for such a hearing within such period, the court may decide whether to place the defendant on probation or release jurisdiction within a reasonable time, not to exceed thirty (30) days, after the period of retained jurisdiction has expired. Placement on probation shall be under such terms and conditions as the court deems necessary and expedient. The court in its discretion may sentence a defendant to more than one (1) period of retained jurisdiction after a defendant has been placed on probation in a case. In no case shall the board of correction or its agent, the department of correction, be required to hold a hearing of any kind with respect to a recommendation to the court for the grant or denial of probation. Probation is a matter left to the sound discretion of the court. Any recommendation made by the department to the court regarding the prisoner shall be in the nature of an addendum to the presentence report. The board of correction and its agency, the department of correction, and their employees shall not be held financially responsible for damages, injunctive or declaratory relief for any recommendation made to the district court under this section.

5. If the crime involved is a felony and if judgment is withheld as provided in subsection 3. of this section or if judgment and a sentence of custody to the state board of correction is suspended at the time of judgment in accordance with subsection 2. of this section or as provided by subsection 4. of this section and the court shall place the defendant upon probation, it shall be to the board of correction, to a county juvenile probation department, or any other person or persons the court, in its discretion, deems appropriate.

6. If the crime involved is a misdemeanor, indictable or otherwise, or if the court should suspend any remaining portion of a jail sentence already commuted in accordance with subsection 1. of this section, the court, if it grants probation, may place the defendant on probation. If the convicted person is a juvenile held for adult criminal proceedings, the court may order probation under the supervision of the county's juvenile probation department.

7. The period of probation ordered by a court under this section under a conviction or plea of guilty for a misdemeanor, indictable or otherwise, may be for a period of not more than two (2) years; and provided that the court may extend the period of probation to include the period of time during which the defendant is a participant in a problem solving court program and for a period of up to one (1) year after a defendant's graduation or termination from a problem solving court program. Under a conviction or plea of guilty for a felony the period of probation may be for a period of not more than the maximum period for which the defendant might have been imprisoned.

SECTION 2. That Section 19-3921, Idaho Code, be, and the same is hereby amended to read as follows:

19-3921. PROCEEDINGS ON PLEA OF GUILTY. When the defendant pleads guilty, or is convicted either by the court or by a jury, the court must render judgment thereon of fine or imprisonment, or both, as the case may be: provided, however, it appearing to the court that it is a proper case, the court may, in its discretion, suspend the execution of judgment, and at such time, or any time during the period of sentence in a county jail, may put the

defendant on probation on such terms and for such time as it may prescribe. The period of probation ordered by the court under this section under a conviction or plea of guilty for a misdemeanor, indictable or otherwise, may be for a period of not more than two (2) years; provided that the court may extend the period of probation to include the period of time during which the defendant is a participant in a problem solving court program and for a period of up to one (1) year after a defendant's graduation or termination from a problem solving court program. The court may withhold judgment on such terms and conditions as it deems necessary or expedient.

Approved March 8, 2012.

CHAPTER 47
(H.B. No. 417)

AN ACT

RELATING TO THE SALES AND USE TAX; AMENDING SECTION 63-3622GG, IDAHO CODE, TO PROVIDE THAT CERTAIN MATERIALS, PARTS AND COMPONENTS INSTALLED ON CERTAIN AIRCRAFT ARE EXEMPT FROM THE SALES AND USE TAX; DECLARING AN EMERGENCY AND PROVIDING A SUNSET DATE.

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

SECTION 1. That Section 63-3622GG, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622GG. AIRCRAFT. There is exempted from the taxes imposed by this chapter:

(1) The sale, lease, purchase, or use of aircraft primarily used to provide passenger or freight services for hire as a common carrier only if:

(a) The person operates the aircraft under the authority of the laws of this state, the United States or any foreign government; and

(b) The aircraft is used to provide services indiscriminately to the public; and

(c) The aircraft itself transports the person or property from one (1) location on the ground or water to another.

(2) The sale, lease, purchase or use of aircraft primarily used for air ambulance services.

(3) The sale, lease or purchase of aircraft for use outside this state by non-residents, even though delivery be made within this state, but only when:

(a) The aircraft will be taken from the point of delivery to a point outside this state;

(b) The aircraft will not be used in this state more than ninety (90) days in any twelve (12) month period.

(4) Repair and replacement materials and parts installed in or affixed or applied to, or sold, leased or purchased to be installed in or affixed or applied to, aircraft in connection with the remodeling, repair or maintenance of aircraft described under subsections (1) and (2) of this section and industry standard, federal aviation administration (FAA) approved materials, parts and components installed on non-resident privately owned aircraft by qualified employees of an FAA approved Idaho repair station are exempt. Tools and equipment utilized in performing such remodeling, repair or maintenance are not exempt.

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. The provisions of this act shall be null, void and of no force and effect on and after June 30, 2016.

Approved March 9, 2012.

CHAPTER 48
(H.B. No. 419)

AN ACT

RELATING TO THE BOARD OF REAL ESTATE APPRAISERS; AMENDING SECTION 54-4107, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DISCIPLINARY PROCEEDINGS; AND AMENDING SECTION 54-4115, IDAHO CODE, TO REVISE PROVISIONS RELATING TO NONRESIDENT LICENSURE OR CERTIFICATION.

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

SECTION 1. That Section 54-4107, Idaho Code, be, and the same is hereby amended to read as follows:

54-4107. DISCIPLINARY PROCEEDINGS. (1) The board may refuse to issue, refuse to renew or may suspend, revoke or otherwise sanction any license or certificate issued under this chapter for any of the following:

- (a) Procuring licensure or certification pursuant to this chapter by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for licensure or certification or through any form of fraud or misrepresentation;
- (b) Being convicted of a felony;
- (c) Making any substantial misrepresentation, false promises or false or fraudulent representation;
- (d) Violating the provisions of this chapter or any rules of the board;
- (e) Being negligent or incompetent, as defined in the uniform standards of professional appraisal practices, in developing an appraisal, in preparing an appraisal report or in communicating an appraisal;
- (f) Accepting an appraisal assignment when the employment is contingent upon the licensed or certified appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment;
- (g) Violating the confidential nature of governmental records to which he gained access through employment as a licensed or certified appraiser by a governmental agency;
- (h) Entering into an agreement to perform specialized services for a contingent fee, and failing to clearly state this fact in each written and oral report;
- (i) Failing as a state licensed or certified real estate appraiser to actively and personally supervise any person not licensed or certified under the provisions of this chapter, who assists said state licensed or certified appraiser in performing real estate appraisals; ~~or~~
- (j) Having had a license or certificate to practice revoked, suspended or otherwise sanctioned by any other state; or
- (k) Failing to comply with a board order entered in a disciplinary matter.

(2) The board, or its duly appointed hearing officer, shall have the power in any disciplinary proceeding under this chapter, to administer oaths, take depositions of witnesses within or without the state in the manner provided by law in civil cases, and may apply to any district court of

this state for a subpoena to require the attendance of such witnesses and the production of such books, records and papers as it deems necessary. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in civil cases, which fees and mileage shall be paid in the same manner as other expenses of the board are paid. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum served upon any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, it shall be the duty of any district court in this state on application by the board to compel compliance with the subpoena by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or for refusal to testify therein. The state licensed or certified person accused in such proceedings shall have the same right of subpoena.

(3) Except as otherwise provided in this chapter, all proceedings under this chapter shall be in accordance with the administrative procedure act, chapter 52, title 67, Idaho Code.

SECTION 2. That Section 54-4115, Idaho Code, be, and the same is hereby amended to read as follows:

54-4115. NONRESIDENT LICENSURE OR CERTIFICATION AND TEMPORARY PRACTICE. (1) Nonresident licensure or certification. If the board determines that another state has substantially equivalent requirements for appraiser licensure or certification and ~~reciprocity exists between the states~~, an applicant from such other state may obtain a license or certificate to practice as a licensed or certified residential or general real estate appraiser in this state, subject to the rules set forth by the board.

(2) Temporary practice. Only to the extent required by federal law, and subject to the rules set forth by the board, a temporary license or certificate for real estate appraisal may be issued to an individual from another state.

(3) Service of process. Prior to and as a condition of an individual's application for either a nonresident license or certificate or a temporary license or certificate, said applicant who is not a resident of Idaho shall submit with his application an irrevocable consent, on a form prescribed by the board, that service of process in any action against the applicant arising out of the applicant's activities as a state licensed or certified real estate appraiser may be made by delivery of process on the board.

Approved March 12, 2012.

CHAPTER 49
(H.B. No. 467)

AN ACT

RELATING TO HEATING, VENTILATION AND AIR CONDITIONING CONTRACTORS; AMENDING SECTION 54-5003, IDAHO CODE, TO REVISE A DEFINITION.

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

SECTION 1. That Section 54-5003, Idaho Code, be, and the same is hereby amended to read as follows:

54-5003. DEFINITIONS. As used in this chapter:

(1) "Heating, ventilation and air conditioning (HVAC)" means and includes the business, trade, practice or work, materials and fixtures used in the design, construction, installation, improvement, extension and alteration of all piping, venting, ductwork, appliances and appurtenances in

connection with any heating, ventilation or air conditioning system or sub-systems of such.

(2) "Heating, ventilation and air conditioning apprentice" means any person who, as his principal occupation, is engaged in learning and assisting in installation, improvement, extension, alteration or repair of HVAC systems. An apprentice shall perform HVAC work under the supervision of an HVAC journeyman or HVAC contractor.

(3) "Heating, ventilation and air conditioning contractor" means any person who fabricates, installs, maintains, services and repairs warm air heating and water heating systems, heat pumps, complete with warm air appliances including, but not limited to, boilers, pool heaters, space heaters, decorative gas and solid-fuel burning furnaces appliances, and gas, propane, electric or oil-fired water heaters; ventilating systems complete with blowers and plenum chambers; air conditioning systems complete with air conditioning unit and the ducts, registers, flues, humidity and thermostatic controls of air, liquid or gas temperatures below fifty (50) degrees fahrenheit or ten (10) degrees celsius, and air filters in connection with any of these systems.

(4) "Heating, ventilation and air conditioning journeyman" means any person who, as his principal occupation, is engaged in the installation, improvement, extension, alteration or repair of HVAC systems and who is familiar with the provisions of this chapter and who works in the employ and under direction of an HVAC contractor.

(5) "Heating, ventilation and air conditioning specialty apprentice including specialty limited heating apprentice" means any person who, as his principal occupation, is engaged in learning and assisting in a specific aspect of installation, improvement, extension, alteration or repair of HVAC systems that includes, but is not limited to, such aspects as gas piping, gas appliances and installation, or decorative gas-fired appliances. A specialty apprentice shall perform HVAC work under the supervision of an HVAC journeyman, HVAC specialty journeyman, HVAC contractor or an HVAC specialty contractor.

(6) "Heating, ventilation and air conditioning specialty contractor including specialty limited heating contractor" means any person who, as his principal occupation, is engaged in a specific aspect of the heating, ventilation and air conditioning trade that includes, but is not limited to, such aspects as gas piping, gas appliances and installation, or decorative gas-fired appliances.

(7) "Heating, ventilation and air conditioning specialty journeyman including specialty limited heating journeyman" means any person who, as his principal occupation, is engaged in a specific aspect of installation, improvement, extension, alteration or repairing of HVAC systems that includes, but is not limited to, such aspects as gas piping, gas appliances and installation, or decorative gas-fired appliances. A specialty journeyman is familiar with the provisions of this chapter and works in the employ and under direction of an HVAC contractor or an HVAC specialty contractor.

(8) "Heating, ventilation and air conditioning system" means any heating, ventilation or air conditioning system in a residential, private, public or semipublic building or structure including, but not limited to, any mechanical means of heating or air conditioning and to gas piping, venting, ductwork and controls.

(9) "Local government" means any incorporated city or any county in the state.

(10) "Specialty limited heating" as it applies to the definitions of "heating, ventilation and air conditioning specialty apprentice," "heating, ventilation and air conditioning specialty contractor" and "heating, ventilation and air conditioning specialty journeyman" means any person who installs, maintains, services and repairs LP gas-fired appliances, LP fuel gas piping and related exhaust venting. This definition of specialty

limited heating shall exclude boilers, hydronic systems, ducted forced air systems, ventilating and air conditioning systems, systems with a BTU input rating over three hundred thousand (300,000), solid fuel and electric fueled systems. A "specialty limited heating journeyman" is required to meet the experience requirement and either the education or examination requirement set forth in this section to receive a certificate of competency. The education of a "specialty limited heating journeyman" shall include one hundred twenty (120) hours of instruction approved by the board of professional-technical education in LP gas specialty education. The experience requirement of a "specialty limited heating journeyman" shall be two (2) years' experience working in the trade, in compliance with the requirements of the state in which the applicant received his supervision or as a registered HVAC apprentice or registered HVAC specialty apprentice making HVAC installation on the job under the supervision of a qualified HVAC journeyman or qualified HVAC specialty journeyman. The examination required in this section shall be developed by the board of professional-technical education and approved by the Idaho heating, ventilation and air conditioning board.

Approved March 12, 2012.

CHAPTER 50
(H.B. No. 468)

AN ACT

RELATING TO MOBILE AND MANUFACTURED HOMES; AMENDING SECTION 44-2201, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE INSTALLATION OF MOBILE AND MANUFACTURED HOMES; AND AMENDING SECTION 44-2202, IDAHO CODE, TO PROVIDE FOR AN INSTALLATION TAG, TO ESTABLISH PROVISIONS RELATING TO THE REQUIREMENT OF INSTALLATION TAGS, TO ESTABLISH PROVISIONS RELATING TO AN INSTALLATION TAG FEE, TO ESTABLISH PROVISIONS RELATING TO INSTALLATION PERMITS, TO ESTABLISH PROVISIONS RELATING TO INSPECTION OF INSTALLATIONS AND TO ESTABLISH PROVISIONS RELATING TO PERMIT FEES.

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

SECTION 1. That Section 44-2201, Idaho Code, be, and the same is hereby amended to read as follows:

44-2201. ~~MOBILE/~~ AND MANUFACTURED HOMES INSTALLATION. (1) All ~~mobile/~~ new manufactured homes must be installed in accordance with the manufacturer's approved installation instructions. All used mobile and manufactured homes shall be installed in accordance with the Idaho manufactured home installation standard, as provided by rule pursuant to this chapter. All ~~mobile/~~ and manufactured homes must be installed in accordance with all other applicable state laws or rules pertaining to utility connection requirements.

(2) The administrator of the division of building safety may promulgate rules in accordance with the provisions of chapter 52, title 67, Idaho Code, specifying standardized installation instructions for ~~mobile/~~ and manufactured homes. Upon the effective date of such rules, the rules shall prevail over any conflicting provisions in this chapter.

SECTION 2. That Section 44-2202, Idaho Code, be, and the same is hereby amended to read as follows:

44-2202. INSTALLATION PERMITS AND INSPECTIONS REQUIRED. (1) The owner or the installer of a ~~mobile/~~ or manufactured home must obtain an installation tag and permit as required by city or county ordinance applicable before

installing a mobile/ or manufactured home that will be used as a residence on a building site or in a park. The installer's license must be in effect at the time of the application for the installation permit.

(2) ~~Cities and counties, which have by ordinance adopted a building code, shall establish a permit process for the installation of all mobile/manufactured homes within their respective jurisdictions and shall provide for inspection of all work in accordance with the Idaho manufactured home installation standard. Fees for installation permits and inspections shall be as established by the city or county having jurisdiction~~ Installation tags shall be obtained from the division of building safety and are required for each installation of a new manufactured home. The fee for the installation tag shall be prescribed in administrative rules promulgated by the administrator of the division of building safety.

(3) Installation permits shall be issued by the division of building safety or a city or county that has by ordinance adopted a building code and whose installation inspection programs have been approved by the division. All installations shall be inspected by the authority having jurisdiction for compliance.

(4) Permit fees shall be prescribed in administrative rules promulgated by the administrator of the division of building safety or as established by the city or county having jurisdiction whose installation inspection program has been approved by the division, as applicable.

(35) Immediately upon completion of the installation of a mobile or manufactured home, a licensed installer or the responsible managing employee of the licensed installer shall perform an inspection of the completed installation to ensure compliance with the ~~Idaho manufactured home applicable~~ installation standard. Such inspection shall be recorded on an inspection record document approved by the division and a copy shall be provided to the homeowner upon completion of the inspection.

Approved March 12, 2012.

CHAPTER 51
(H.B. No. 482)

AN ACT

RELATING TO REPORTS ON CAPITAL AND SURPLUS; AMENDING SECTION 57-113, IDAHO CODE, TO CLARIFY WHEN THE REPORT ON CAPITAL AND SURPLUS IS TO BE FILED AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 57-113, Idaho Code, be, and the same is hereby amended to read as follows:

57-113. REPORT ON CAPITAL AND SURPLUS. Every financial institution designated as a public depository and holding any deposit of public funds of any depositing unit under the provisions of this chapter shall, on or before beginning to hold such deposits, file with the treasurer and the supervising board of each such depositing unit whose deposit it so holds, the affidavit of one (1) of its officers showing the amount of the capital stock and surplus or reserves and unallocated or undivided earnings, as applicable, of such institution. In the event that such institution has such an affidavit on file with the treasurer and supervising board of each relevant depositing unit on the effective date of this section, such affidavit or affidavits shall satisfy the requirement of this section until January 31 of the year next following the effective date of this act. Such affidavits shall be effective for the purposes of this section to and including January 31 next

following the date of their filing, but no longer, and, on or before that date, if such institution is to continue as a designated public depository under this chapter, a like affidavit shall be filed in like manner for the succeeding year on or before the date specified by the state treasurer pursuant to section 67-2739(2), Idaho Code. No such institution shall receive deposits from nor act as depository for the public funds of any depositing unit unless and until an affidavit as is herein required and which still continues in effect is on file with the treasurer and the supervising board of such depositing unit in accordance with this section.

Approved March 12, 2012.

CHAPTER 52
(H.B. No. 498)

AN ACT

RELATING TO THE TRANSPORTATION SUPPORT PROGRAM; AMENDING SECTION 33-1006, IDAHO CODE, TO DELETE LANGUAGE RELATING TO CERTAIN DUTIES OF THE LEGISLATIVE AUDITS SECTION OF THE LEGISLATIVE SERVICES OFFICE AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-1006, Idaho Code, be, and the same is hereby amended to read as follows:

33-1006. TRANSPORTATION SUPPORT PROGRAM. (1) The state board of education shall determine what costs of transporting pupils, including maintenance, operation and depreciation of basic vehicles, insurance, payments under contract with other public transportation providers whose vehicles used to transport pupils comply with federal transit administration regulations, "bus testing," 49 C-F-R, part 665, and any revision thereto, as provided in subsection (4) (d) of this section, or other state department of education approved private transportation providers, salaries of drivers, and any other costs, shall be allowable in computing the transportation support program of school districts. Provided however, that the only miles for which costs may be reimbursed, shall be those directly associated with transporting students for the purposes of regular school attendance during regular days and hours.

(2) Any costs associated with the addition of vehicle features that are not part of the basic vehicle shall not be allowable in computing the transportation support program of school districts. A basic vehicle is hereby defined as the cost of the vehicle without optional features, plus the addition of essential safety features and features necessary for the transportation of pupils with disabilities.

(3) Each school district shall maintain records and make reports as are required for the purposes of this section.

(4) The transportation support program of a school district shall be based upon the allowable costs of:

(a) Transporting public school pupils one and one-half (1 1/2) miles or more to school;

(b) Transporting pupils less than one and one-half (1 1/2) miles as provided in section 33-1501, Idaho Code, when approved by the state board of education;

(c) The costs of payments when transportation is not furnished, as provided in section 33-1503, Idaho Code;

(d) The transportation program for grades six (6) through twelve (12), upon the costs of payments pursuant to a contract with other public or

private transportation providers entered into as provided in section 33-1510, Idaho Code, if the school district establishes that the reimbursable costs of transportation under the contract are equal to or less than the costs for school buses;

(e) The employer's share of contributions to the public employee retirement system and to social security.

(5) The state's share of the transportation support program shall be fifty percent (50%) of reimbursable transportation costs of the district incurred during the immediately preceding state fiscal year, except for the cost of state department of education training and fee assessments and bus depreciation and maintenance, for which the state's share shall be eighty-five percent (85%) of such costs. For school districts that contract for pupil transportation services, the state's share shall be the average state share of costs for district-run operations, based on the statewide total of such costs. Provided however, that the reimbursable costs for any school district shall not exceed one hundred three percent (103%) of the statewide average reimbursable cost per mile or the state average reimbursable cost per student rider, whichever is more advantageous to the school district. If a school district's costs exceed the one hundred three percent (103%) limit when computed by the more advantageous of the two (2) methods, that school district shall be reimbursed at the appropriate percentage designated by this subsection, multiplied by the maximum limit for whichever method is more favorable to the school district. A school district may appeal the application of the one hundred three percent (103%) limit on reimbursable costs to the state board of education, which may establish for that district a new percentile limit for reimbursable costs compared to the statewide average, which is higher than one hundred three percent (103%). In doing so, the state board of education may set a new limit that is greater than one hundred three percent (103%), but is less than the percentile limit requested by the school district. However, the percentage increase in the one hundred three percent (103%) cap shall not exceed the percentage of the district's bus runs that qualify as a hardship bus run, pursuant to this subsection. Any costs above the new level established by the state board of education shall not be reimbursed. Such a change shall only be granted by the state board of education for hardship bus runs. To qualify as a hardship bus run, such bus run shall meet at least two (2) of the following criteria:

(a) The number of student riders per mile is less than fifty percent (50%) of the statewide average number of student riders per mile;

(b) Less than a majority of the miles on the bus run are by paved surface, concrete or asphalt, road;

(c) Over ten percent (10%) of the miles driven on the bus run are a five percent (5%) slope or greater.

~~The legislative audits section of the legislative services office shall review cap increases granted by the state board of education pursuant to this section, and shall include findings in the board's regular audit report for any instances in which such increases failed to meet the standards set forth in this subsection.~~

(6) Beginning on July 1, 2005, any eligible home-based public virtual school may claim transportation reimbursement for the prior fiscal year's cost of providing educational services to students. In order to be eligible, such a school shall have at least one (1) average daily attendance divisor, pursuant to section 33-1002, Idaho Code, that is greater than the median divisor shown for any category of pupils, among the actual divisors listed. For the purposes of paragraphs (a), (b) and (c) of this subsection (6), "education provider" means the home-based public virtual school or an entity that has legally contracted with the home-based public virtual school to supply education services. Reimbursable costs shall be limited to the costs of:

- (a) Providing an internet connection service between the student and the education provider, not including the cost of telephone service;
- (b) Providing electronic and computer equipment used by the student to transmit educational material between the student and the education provider;
- (c) Providing a toll-free telephone service for students to communicate with the education provider;
- (d) Providing education-related, face-to-face visits by representatives of the home-based public virtual school, with such reimbursements limited to the mileage costs set for state employee travel by the state board of examiners; and
- (e) Any actual pupil transportation costs that would be reimbursable if claimed by a school district.

The total reimbursement for such home-based public virtual schools shall be exempt from the statewide average cost per mile limitations of this section. The state's share of reimbursable costs shall be eighty-five percent (85%), subject to the statewide cost per student rider provisions of this section. For the purposes of such home-based public virtual school, the number of student riders shall be the same as the number of pupils in average daily attendance.

(7) The state department of education shall calculate the amount of state funds lost in fiscal year 2010 by each school district as a result of the decrease in the state reimbursement from eighty-five percent (85%) to fifty percent (50%) of certain eligible costs, including the reduction calculated for districts that contract for pupil transportation services, and excluding any reductions made due to the limitation on reimbursable expenses, all pursuant to subsection (5) of this section. The amount so calculated shall be distributed to each school district in fiscal year 2010. For each fiscal year thereafter, the amount distributed pursuant to this subsection (7) for each school district shall be determined as follows:

- (a) Divide the amount distributed to the district pursuant to this subsection (7) in fiscal year 2010 by the district's support units for fiscal year 2010;
- (b) Multiply the result of the calculation found in subsection (7) (a) of this section by the number of support units in the current fiscal year;
- (c) Determine the percentage change in statewide transportation reimbursements as provided for in subsection (5) of this section since fiscal year 2010;
- (d) Determine the percentage change in statewide student enrollment since fiscal year 2010;
- (e) Subtract the result of the calculation found in subsection (7) (d) of this section from the result of the calculation found in subsection (7) (c) of this section;
- (f) Adjust the result of the calculation found in subsection (7) (b) of this section by the percentage result from subsection (7) (e) of this section.

For school districts divided after fiscal year 2010, the calculation in subsection (7) (a) of this section shall still be based on the fiscal year 2010 figures for the formerly consolidated district. For public charter schools beginning operations on or after July 1, 2009, all calculations in this subsection (7) that are based on fiscal year 2010 shall instead be based on the public charter school's first fiscal year of operations. For the purposes of this subsection (7), the support units used shall be the number used for calculating salary-based apportionment. Funds distributed pursuant to this subsection (7) shall be used to defray the cost of pupil transportation. If the amount distributed is in excess of a school district's actual pupil transportation costs, less any state reimbursements provided by subsection

(5) of this section, the excess funds may be used at the school district's discretion.

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

Approved March 12, 2012.

CHAPTER 53
(H.B. No. 466)

AN ACT

RELATING TO PLUMBING AND PLUMBERS; AMENDING SECTION 54-2601, IDAHO CODE, TO REVISE PROVISIONS RELATING TO POLICY AND PURPOSE, TO REVISE PROVISIONS RELATING TO THE UNIFORM PLUMBING CODE, TO ESTABLISH PROVISIONS RELATING TO THE IDAHO STATE PLUMBING CODE, TO ESTABLISH PROVISIONS RELATING TO CITIES ELECTING TO IMPLEMENT A PLUMBING CODE ENFORCEMENT PROGRAM, TO ESTABLISH PROVISIONS RELATING TO CITIES AND THE IDAHO STATE PLUMBING CODE, TO PROVIDE FOR A PUBLIC HEARING AND NOTICE; TO REVISE PROVISIONS RELATING TO APPLICATION OF LAWS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-2601, Idaho Code, be, and the same is hereby amended to read as follows:

54-2601. DECLARATION OF POLICY AND PURPOSE OF ACT -- IDAHO STATE PLUMBING CODE. (1) The purpose of this act is to provide certain minimum standards and requirements for the use of and the design, construction, installation, improvement, extension and alteration of materials, piping, venting, fixtures, appliances and appurtenances in relation to plumbing and plumbing systems hereinafter defined, and to provide that all plumbing and plumbing systems in the state shall be designed, constructed, installed, improved, extended and altered in substantial accord with the Uniform Plumbing Code published by the International Association of Plumbing and Mechanical Officials, and as it shall be amended, revised, compiled and published from time to time and as such subsequent editions, amendments or revisions thereto shall be adopted by the Idaho plumbing board; provided that the through the negotiated rulemaking process. Any amendments, revisions or modifications made to the uniform plumbing code by the board shall be made by administrative rules promulgated by the board. The uniform plumbing code together with any amendments, revisions or modifications made by the board shall collectively constitute and be named the Idaho state plumbing code. The board shall conduct a minimum of two (2) public hearings with notice of such public hearings provided in accordance with the provisions of section 67-2343, Idaho Code.

(2) Cities electing to implement a plumbing code enforcement program shall do so only in compliance with the provisions of this section. Cities may elect to implement a plumbing enforcement program by passing an ordinance evidencing the intent to do so. Cities that perform plumbing code enforcement activities shall, except as provided in subsection (3) of this section, by ordinance adopt the uniform plumbing code together with any amendments thereto made by the board, which shall collectively constitute and be named the Idaho state plumbing code. The effective date of any edition of the code adopted by the board shall be January 1 of the year following its adoption.

(3) Cities may further amend the Idaho state plumbing code adopted by the board in conformance with this section to address local concerns provided that such amendments prescribe at least an equivalent level of protection to that contained in the uniform plumbing code. Provided however, that no code other than the uniform plumbing code together with any amendments, revisions or modifications made by the board which collectively constitute the Idaho state plumbing code may serve as the minimum standard for plumbing installations in such city. A city electing to amend the Idaho state plumbing code as adopted by the board may do so only after a finding by the city that good cause exists for such an amendment and that such amendment is reasonably necessary. Prior to making a finding of good cause for such an amendment, the city shall conduct a public hearing. Notice of the time and place of the public hearing shall be published in the official newspaper or paper of general circulation within the city. Written notice of such public hearing and the text of the proposed amendment shall be given by the city to the board not less than thirty (30) days prior to such hearing.

(4) The remaining provisions of this act shall not apply, except as hereinafter provided, to cities if such cities have or enact ordinances or codes prescribing the Idaho state plumbing code and amendments it may make thereto in accordance with this section for all plumbing installations which shall be considered the equal minimum standards, and requirements including the enforcement thereof as provided by this act.

Approved March 13, 2012.

CHAPTER 54
(H.B. No. 484)

AN ACT

RELATING TO BOARDS OF COMMUNITY GUARDIAN; AMENDING SECTION 15-5-602, IDAHO CODE, TO REMOVE REFERENCE TO THE LIMITATION FOR SUCCESSIVE YEARS ON A BOARD OF COMMUNITY GUARDIAN.

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

SECTION 1. That Section 15-5-602, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-602. BOARD STRUCTURE -- POWERS AND DUTIES. (a) Any board of community guardian which is created within a county or counties in a judicial district shall operate under the laws of the state of Idaho, including the Idaho guardianship, conservatorship and trust laws.

(b) A board of community guardian shall consist of not fewer than seven (7) or more than eleven (11) members who are representatives of community interests involving persons needing guardians or conservators as defined by chapter 5, title 15, Idaho Code. Members shall be appointed by the board of county commissioners that created the board of community guardian under section 15-5-601, Idaho Code.

(1) The terms of the members of the board shall be for four (4) years and shall be staggered. A number of members equaling or most closely exceeding one-half (1/2) shall initially be appointed for three (3) years. Any vacancy created by resignation or expiration of term shall be filled in the same manner as the original appointment;

(2) ~~No person shall be appointed for more than three (3) successive terms or twelve (12) successive years on the board; provided however, that the limitations expressed in this paragraph do not prohibit a person from continuing~~ A member will continue to serve on the board until that person's successor is appointed;

- (3) The board shall meet not less than once each quarter;
- (4) No person shall be a member of a board who is also an employee of the district court or the clerk of the district court;
- (5) A board member having previously provided or currently providing services to a ward shall disclose such to the board and abstain from any decision or action taken concerning that particular ward;
- (6) Board members and officers shall serve without pay;
- (7) Each board shall elect its own chairman and other officers.

(c) A board, in those instances when a guardian and/or conservator is required and no qualified family member or other qualified person has volunteered to serve, may:

- (1) Locate a qualified person to serve as guardian and/or conservator;
or
- (2) Petition the court to be appointed guardian and/or conservator.

(d) The board shall have all the powers and duties where applicable by court order, as provided under section 15-5-312, Idaho Code, and/or sections 15-5-408 and 15-5-424, Idaho Code, and in addition thereto shall:

- (1) Locate and recommend to the court, where necessary, that a visitor be appointed as provided in section 15-5-503, Idaho Code;
- (2) Have access to all confidential records, including abuse registry reports that may be maintained by state or private agencies or institutions, which records concern a person for whom the board acts as guardian and/or conservator. The name of the person reporting the alleged abuse shall be subject to disclosure according to chapter 3, title 9, Idaho Code;
- (3) Review and monitor the services provided by public and private agencies to any incapacitated person for whom the board acts as guardian and/or conservator and determine the continued need for those services;
- (4) Assess a fee for services developed pursuant to this part;
- (5) Have the power, subject to the approval of the board of county commissioners, to adopt such rules as are necessary to carry out the duties and responsibilities of the board.

(e) When a board serves as guardian or conservator, it shall be compensated as other guardians or conservators pursuant to Idaho law. If, at the time the board is appointed as guardian and/or conservator, the incapacitated person for whom the board is to act has no funds, the court may waive the payment of fees.

(f) When a board serves as guardian and/or conservator there is created, at the time of filing of the order of appointment, a lien in favor of the board against any real property owned by the ward or protected person, enforceable only upon the termination of the guardianship and/or conservatorship, for all fees which were incurred throughout the duration of the services and which were not paid prior to termination. All fees incurred throughout the duration of the services and which were not paid prior to the termination of services shall relate back to the effective date of the lien. The board must record a notice of said lien within thirty (30) days of filing of the order of appointment. Such liens shall be recorded in every county where property subject to the lien is located. The notice shall contain at least the following information: full court heading of the action in which the appointment was made; the effective date of the lien; the name and address of the board; and any limitations or terms regarding the fees covered by the lien contained in the order of appointment. The court may postpone or arrange for gradual repayment of the fees if the court finds that the immediate repayment would create a hardship on the person.

(g) No member of a board of community guardian, any employees, or any visitor appointed at the request of such board pursuant to section 15-5-303, Idaho Code, shall be liable for civil damages by reason of authorizing medical treatment or surgery for the person for whom the board is appointed, if the board member, employee or visitor, after medical consultation with the

person's physician, acts in good faith, is not negligent, and acts within the limits established for the guardian and/or conservator by the court. No such person shall be liable, by reason of his authorization, for injury to the person for whom the guardian and/or conservator has been appointed which injury results from the negligence or other acts of a third person, if the court has authorized the giving of medical consent by the board or the individual members of the board. No such person shall be liable in the performance of acts done in good faith within the scope of his authority as long as the act is not of a wanton or grossly negligent nature. The board of community guardian shall be deemed to be a governmental entity for the purposes of application of the Idaho tort claims act.

Approved March 13, 2012.

CHAPTER 55
(H.B. No. 489)

AN ACT

RELATING TO USE TAX; AMENDING SECTION 63-3621, IDAHO CODE, TO PROVIDE THAT USE TAX SHALL NOT APPLY TO CERTAIN FREE TASTINGS OF BEVERAGES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-3621, Idaho Code, be, and the same is hereby amended to read as follows:

63-3621. IMPOSITION AND RATE OF THE USE TAX -- EXEMPTIONS. An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property acquired on or after October 1, 2006, for storage, use, or other consumption in this state at the rate of six percent (6%) of the value of the property, and a recent sales price shall be presumptive evidence of the value of the property unless the property is wireless telecommunications equipment, in which case a recent sales price shall be conclusive evidence of the value of the property.

(a) Every person storing, using, or otherwise consuming, in this state, tangible personal property is liable for the tax. His liability is not extinguished until the tax has been paid to this state except that a receipt from a retailer maintaining a place of business in this state or engaged in business in this state given to the purchaser is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers. A retailer shall not be considered to have stored, used or consumed wireless telecommunications equipment by virtue of giving, selling or otherwise transferring such equipment at a discount as an inducement to a consumer to commence or continue a contract for telecommunications service.

(b) Every retailer engaged in business in this state, and making sales of tangible personal property for the storage, use, or other consumption in this state, not exempted under section 63-3622, Idaho Code, shall, at the time of making the sales or, if storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the state tax commission.

(c) The provisions of this section shall not apply when the retailer pays sales tax on the transaction and collects reimbursement for such sales tax from the customer.

(d) Every retailer engaged in business in this state or maintaining a place of business in this state shall register with the state tax commission

and give the name and address of all agents operating in this state, the location of all distributions or sales houses or offices or other places of business in this state, and such other information as the state tax commission may require.

(e) For the purpose of the proper administration of this act and to prevent evasion of the use tax and the duty to collect the use tax, it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use, or other consumption in this state. The burden of proving the sale is tax exempt is upon the person who makes the sale unless he obtains from the purchaser a resale certificate to the effect that the property is purchased for resale or rental. It shall be presumed that sales made to a person who has completed a resale certificate for the seller's records are not taxable and the seller need not collect sales or use taxes unless the tangible personal property purchased is taxable to the purchaser as a matter of law in the particular instance claimed on the resale certificate.

A seller may accept a resale certificate from a purchaser prior to the time of sale, at the time of sale, or at any reasonable time after the sale when necessary to establish the privilege of the exemption. The resale certificate relieves the person selling the property from the burden of proof only if taken from a person who is engaged in the business of selling or renting tangible personal property and who holds the permit provided for by section 63-3620, Idaho Code, or who is a retailer not engaged in business in this state, and who, at the time of purchasing the tangible personal property, intends to sell or rent it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose. Other than as provided elsewhere in this section, when a resale certificate, properly executed, is presented to the seller, the seller has no duty or obligation to collect sales or use taxes in regard to any sales transaction so documented regardless of whether the purchaser properly or improperly claimed an exemption. A seller so relieved of the obligation to collect tax is also relieved of any liability to the purchaser for failure to collect tax or for making any report or disclosure of information required or permitted under this chapter.

The resale certificate shall bear the name and address of the purchaser, shall be signed by the purchaser or his agent, shall indicate the number of the permit issued to the purchaser, or that the purchaser is an out-of-state retailer, and shall indicate the general character of the tangible personal property sold by the purchaser in the regular course of business. The certificate shall be substantially in such form as the state tax commission may prescribe.

(f) If a purchaser who gives a resale certificate makes any storage or use of the property other than retention, demonstration or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the property is first so stored or used.

(g) Any person violating any provision of this section is guilty of a misdemeanor and punishable by a fine not in excess of one hundred dollars (\$100), and each violation shall constitute a separate offense.

(h) It shall be presumed that tangible personal property shipped or brought to this state by the purchaser was purchased from a retailer, for storage, use or other consumption in this state.

(i) It shall be presumed that tangible personal property delivered outside this state to a purchaser known by the retailer to be a resident of this state was purchased from a retailer for storage, use, or other consumption in this state. This presumption may be controverted by evidence satisfactory to the state tax commission that the property was not purchased for storage, use, or other consumption in this state.

(j) When the tangible personal property subject to use tax has been subjected to a general retail sales or use tax by another state of the United

States in an amount equal to or greater than the amount of the Idaho tax, and evidence can be given of such payment, the property will not be subject to Idaho use tax. If the amount paid the other state was less, the property will be subject to use tax to the extent that the Idaho tax exceeds the tax paid to the other state. For the purposes of this subsection, a registration certificate or title issued by another state or subdivision thereof for a vehicle or trailer or a vessel as defined in section 67-7003, Idaho Code, shall be sufficient evidence of payment of a general retail sales or use tax.

(k) The use tax herein imposed shall not apply to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than a cumulative period of time totaling ninety (90) days in any consecutive twelve (12) months, and which is not required to be registered or licensed under the laws of this state. The use tax herein shall also not apply to any use of a motor vehicle which is registered or licensed under the laws of the state of residence of a nonresident student while such nonresident student is enrolled as a full-time student in an institution of postsecondary education that is both physically located in Idaho and recognized as accredited by the state board of education.

(l) The use tax herein imposed shall not apply to the use of household goods, personal effects and personally owned vehicles or personally owned aircraft by a resident of this state, or military personnel temporarily assigned in this state and spouses who accompany them, if such articles were acquired by such person in another state while a resident of that state and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial. For purposes of this subsection, "resident" shall be as defined in section 63-3013 or 63-3013A, Idaho Code.

(m) The use tax herein imposed shall not apply to the storage, use or other consumption of tangible personal property which is or will be incorporated into real property and which has been donated to and has become the property of:

- (1) A nonprofit organization as defined in section 63-36220, Idaho Code; or
- (2) The state of Idaho; or
- (3) Any political subdivision of the state.

This exemption applies whether the tangible personal property is incorporated in real property by the donee, a contractor or subcontractor of the donee, or any other person.

(n) The use tax herein imposed shall not apply to free tastings of beverages including, but not limited to, wine and beer. For the purposes of this subsection, a free tasting shall be defined as a beverage provided to a potential customer, at no charge, and to occur individually at that specific location and time.

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

Approved March 13, 2012.

CHAPTER 56
(S.B. No. 1333)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 2012; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 314, Laws of 2011, and any other appropriation provided for by law, there is hereby appropriated \$200,000 from the General Fund to the Secretary of State, to be expended for operating expenditures, for the period July 1, 2011, through June 30, 2012.

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

Approved March 13, 2012.

CHAPTER 57
(S.B. No. 1371)

AN ACT

RELATING TO PRIMARY ELECTION BALLOTS; AMENDING SECTION 34-904, IDAHO CODE, TO REVISE THE CONTENTS OF A PRIMARY ELECTION BALLOT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-904, Idaho Code, be, and the same is hereby amended to read as follows:

34-904. PRIMARY ELECTION BALLOTS. (1) There shall be a separate primary election ballot for each political party upon which only its ticket shall be printed; however, a county may use a separate ballot for the office of precinct committeeman. All candidates who have filed their declarations of candidacy and are subsequently certified shall be listed under the proper office titles on their political party ticket. The secretary of state shall design the primary election ballot to allow for write-in candidates under each office title.

(2) The office titles shall be listed in order beginning with the highest federal office and ending with precinct offices. The secretary of state has the discretion and authority to arrange the classifications of offices as provided by law.

(3) It is not necessary to print a primary ballot for a political party which does not have candidates for more than half of the federal or statewide offices on the ballot if no more than one (1) candidate files for nomination by that party for any of the offices on the ballot. The secretary of state shall certify that no primary election is necessary for that party if such is the case and shall certify to the county clerk the names of candidates for that party for the general election ballot only.

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

Approved March 13, 2012.

CHAPTER 58
(H.B. No. 574)

AN ACT

APPROPRIATING ADDITIONAL MONEYS FROM THE GENERAL FUND AND DIRECTING A TRANSFER TO THE CATASTROPHIC HEALTH CARE FUND FOR FISCAL YEAR 2012; 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 293, Laws of 2011, and any other appropriation provided for by law, there is hereby appropriated to the Catastrophic Health Care Program \$13,070,000 from the General Fund to be transferred to the Catastrophic Health Care Fund, for the period July 1, 2011, through June 30, 2012.

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.

Law without signature.

CHAPTER 59
(H.B. No. 517)

AN ACT

RELATING TO ADJUSTMENTS TO IDAHO TAXABLE INCOME; AMENDING SECTION 63-30220, IDAHO CODE, TO REMOVE LANGUAGE DISALLOWING DEDUCTION OF CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS 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 63-30220, Idaho Code, be, and the same is hereby amended to read as follows:

63-30220. ADJUSTMENT -- PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001 -- ~~EXPENSES OF ELEMENTARY AND SECONDARY TEACHERS~~ -- SMALL BUSINESS EXPENSES -- LIMITATIONS ON ASSESSMENTS AND REFUNDS. For taxable years commencing on and after January 1, 2001, in computing Idaho taxable income:

(1) The adjusted basis of depreciable property, depreciation and gains and losses from sale, exchange or other disposition of depreciable property acquired after September 10, 2001, and before December 31, 2007, shall be computed without regard to subsection (k) of section 168 of the Internal Revenue Code and the adjusted basis of depreciable property, depreciation and capital gains and losses shall be computed without regard to subsection (k) of section 168 of the Internal Revenue Code, as amended by the "tax relief,

unemployment insurance reauthorization and job creation act of 2010" and as amended by the "small business jobs act of 2010"; and

(2) ~~No deduction shall be allowed relating to expenses of elementary and secondary teachers otherwise allowable under section 62(a)(2)(D) of the Internal Revenue Code; and~~

~~(3) Adjustments in computing Idaho taxable income required by subsection (1) of this section shall be made without regard to loss limitations imposed by sections 465, 469, 704(d) and 1366(d) of the Internal Revenue Code; and~~

(43) A taxpayer's basis in an interest in a pass-through entity, amount at risk, and passive activity loss carryover shall be the same amount for purposes of the Idaho income tax act as the amount determined under the Internal Revenue Code; and

(54) Each partner, shareholder, member or beneficiary, shall include in Idaho taxable income his share of the adjustments required by this section in computing Idaho taxable income of any pass-through entity; and

(65) Notwithstanding the provisions of sections 63-3068 and 63-3072, Idaho Code, the period of limitations for issuing a notice of deficiency determination or filing a claim for refund for any year for which an adjustment is required by this section shall not expire before three (3) years from the later of: (a) the due date of the return for the last taxable year an adjustment was required by this section, or (b) the date the return was filed for the last taxable year an adjustment was required by this section. Upon the expiration of the period of limitations as provided in subsections (a) and (m) of section 63-3068, Idaho Code, and subsections (b) and (h) of section 63-3072, Idaho Code, only those specific items of basis, deductions, gains or losses that are computed, without regard to subsection (k) of section 168 of the Internal Revenue Code, as required by this section shall be subject to adjustment.

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, 2012.

Approved March 13, 2012.

CHAPTER 60
(H.B. No. 546)

AN ACT

RELATING TO THE GLOBAL ENTREPRENEURIAL MISSION GRANT FUND; AMENDING SECTION 67-4725, IDAHO CODE, TO CREATE THE GLOBAL ENTREPRENEURIAL MISSION GRANT FUND, TO PROVIDE MONEYS FOR THE FUND AND TO PROVIDE FOR A TRANSFER OF MONEYS FROM THE FUND; AMENDING SECTION 67-4726, IDAHO CODE, TO CREATE THE IDAHO GLOBAL ENTREPRENEURIAL MISSION COUNCIL AND TO PROVIDE MEMBERSHIP OF THE COUNCIL; AMENDING CHAPTER 47, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4729, IDAHO CODE, TO PROVIDE FOR DEPARTMENT OF COMMERCE AND IDAHO GLOBAL ENTREPRENEURIAL MISSION COUNCIL RULES AND RESPONSIBILITIES; AMENDING CHAPTER 47, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4730, IDAHO CODE, TO PROVIDE THE IDAHO GLOBAL ENTREPRENEURIAL MISSION RESEARCH; AND AMENDING CHAPTER 47, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4731, IDAHO CODE, TO PROVIDE FOR COMMERCIALIZATION REVENUE DISTRIBUTION.

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

SECTION 1. That Section 67-4725, Idaho Code, be, and the same is hereby amended to read as follows:

67-4725. IDAHO INNOVATION GLOBAL ENTREPRENEURIAL MISSION GRANT FUND. There is hereby created in the state treasury the Idaho ~~innovation~~ global entrepreneurial mission grant fund hereafter known as the IGEM grant fund. Moneys in the fund shall consist of funds received pursuant to section 49-416C, Idaho Code, state appropriated general funds, commercialization revenues from state IGEM projects, grants, federal moneys, donations or funds from any other source. Moneys in the fund may be expended pursuant to appropriation. The fund balance in the fund may be appropriated annually to the department of commerce, ~~commercial innovation division~~ for the purpose of supporting the IGEM grants. The treasurer shall invest all idle moneys in the fund. Any interest earned on the investment of idle moneys shall be returned to the fund.

SECTION 2. That Section 67-4726, Idaho Code, be, and the same is hereby amended to read as follows:

67-4726. IDAHO INNOVATION GLOBAL ENTREPRENEURIAL MISSION COUNCIL -- APPOINTMENT OF MEMBERS -- QUALIFICATIONS. (1) The state of Idaho recognizes that the health and expansion of Idaho's future economy will depend upon taking full advantage of research and technology, and that Idaho has impressive resources for innovation-based growth, internationally recognized university research programs, globally competitive innovation companies and the Idaho national laboratory.

The Idaho ~~innovation~~ IGEM council is hereby created to advise the department of commerce, the state board of education, state colleges and universities, and other state, local, federal and private sector agencies and organizations on innovation interests and potentials; to support the development and publishing of information on the condition and importance of innovation to the state's economy; to assist with the development and implementation of a state strategic plan for innovation; and to assist with the coordination of local, state and federal interests to increase the positive economic impact of the state's innovation resources.

(2) The council shall be appointed by and serve at the pleasure of the governor. Membership of the council shall include individuals knowledgeable and experienced in innovation issues. ~~The council shall include representatives from the private sector who have expertise in the transfer and commercialization of technology, and representatives from the department of commerce, the office of the state board of education, and the office of the governor. The governor shall designate a chairman from the council's private-sector membership and the council shall designate such other officers from its membership as it deems necessary. The chairman and council members from the department of commerce, the state board of education, and the office of the governor shall serve as the executive committee of the council. The council shall be staffed and supported by the department of commerce, commercial innovation division.~~ The council shall include: four (4) representatives from the private sector who have expertise in the transfer and commercialization of technology, the director of the department of commerce, one (1) member of the state board of education, one (1) representative from the Idaho national laboratory or the center for advanced energy studies, and one (1) representative each from Boise state university, Idaho state university and the university of Idaho. The president pro tempore of the senate and the speaker of the house of representatives, or their designees, shall serve as members of the council. The governor shall designate a chairman from the council's private-sector membership and the council shall designate such other officers from its membership as it deems necessary. The chairman, the director of the department of commerce and the

state board of education member of the council shall serve as the executive committee of the council. The council shall be staffed and supported by the department of commerce. Members of the council who are not state employees shall be compensated for actual and necessary expenses as provided by section 59-509(b), Idaho Code.

SECTION 3. That Chapter 47, 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 67-4729, Idaho Code, and to read as follows:

67-4729. DEPARTMENT OF COMMERCE AND IGEM COUNCIL RULES AND RESPONSIBILITIES. (1) The department of commerce in conjunction with the IGEM council shall:

(a) Ensure that IGEM funds appropriated to the department of commerce and received for research and development at the universities and for the technology outreach program are used appropriately, effectively and efficiently in accordance with the intent of the legislature;

(b) In conjunction with the IGEM research institutions and the private sector, evaluate best practices utilized by successful technology transfer programs and make recommendations to the IGEM research institutions for transaction and legal structures that incorporate those best practices;

(c) Enhance technology transfer and commercialization of research and technologies developed at the universities to create high-quality jobs and new industries in the private sector in Idaho;

(d) In conjunction with the university research departments and the private sector, develop a standardized process for the transfer of intellectual property from all IGEM-funded research projects and for the IGEM grant awards;

(e) Establish economic development objectives for each IGEM state funded project;

(f) Establish rules for the IGEM grant program including weighted consideration for Idaho based entities and a matching requirement, monetary or otherwise, for recipients of the awards;

(g) Verify that the IGEM project is being enhanced by research grants and that it is meeting the economic development objectives of the department of commerce and the IGEM council;

(h) Monitor all research plans that are part of the project at the research universities to determine that appropriations are being spent in accordance with legislative intent and to measure the benefit and return to the state;

(i) Develop methods and incentives to encourage investment in and contributions to the IGEM project from the private sector; and

(j) Annually report and make recommendations to:

(i) The governor;

(ii) The joint finance-appropriations committee;

(iii) The house and senate commerce and human resource committees; and

(iv) The office of the state board of education.

(2) The department of commerce and the Idaho global entrepreneurial mission council may:

(a) In addition to moneys received by it from the legislature, receive contributions from any source in the form of money, property, labor or other things of value for the project;

(b) Subject to any restrictions imposed by the donation, appropriations or bond authorizations, allocate moneys received by it among the universities, technology outreach program and technology transfer offices to support commercialization and technology transfer to the private sector; or

(c) Enter into agreements necessary to obtain private equity investment in the project.

SECTION 4. That Chapter 47, 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 67-4730, Idaho Code, and to read as follows:

67-4730. IDAHO GLOBAL ENTREPRENEURIAL MISSION (IGEM) RESEARCH. As funding becomes available from the legislature or other sources, and subject to any restrictions or directions established by the legislature, the state board of education and/or the department of commerce may allocate moneys to Boise state university, the university of Idaho and Idaho state university to provide funding for research teams or individual university research faculty to conduct IGEM-project designated research.

SECTION 5. That Chapter 47, 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 67-4731, Idaho Code, and to read as follows:

67-4731. COMMERCIALIZATION REVENUE DISTRIBUTION. For all revenue generated through the IGEM university research initiative and by IGEM funded research faculty the following is the priority of revenue distribution:

- (a) The revenue shall first reimburse the costs associated with commercialization expenses generated by any of the three (3) universities.
- (b) The university research faculty or IGEM university research teams shall be provided the prenegotiated portion of the commercialization revenue. The prenegotiated portion shall be determined by the universities collectively for those faculty involved in IGEM-funded research and individually by the employing university in all other situations.
- (c) Remaining funds shall be distributed according to the following priorities:
 - (i) Up to twenty-five percent (25%) of the total remaining revenues shall reimburse the general fund for the current year expenses that were paid to support the IGEM research faculty teams or the IGEM research faculty that develop the commercialized product.
 - (ii) Up to five percent (5%) of the remaining revenues may be deposited into the IGEM grant funds to support IGEM grants. The amount shall be agreed to by the university/universities and the council prior to distribution.
 - (iii) The remaining funds shall be distributed to Boise state university, the university of Idaho and Idaho state university, with the moneys distributed based on the participation of the universities in the research project that generated the commercialization revenue.

Approved March 14, 2012.

CHAPTER 61
(H.B. No. 441)

AN ACT

RELATING TO HEALTH CARE FOR INDIGENT PERSONS; AMENDING SECTION 31-3503, IDAHO CODE, TO AUTHORIZE COUNTY COMMISSIONERS TO PAY FOR AUTHORIZED EXPENSES TO MANAGE HEALTH CARE COSTS FOR INDIGENT PERSONS; AMENDING SECTION 31-3503A, IDAHO CODE, TO AUTHORIZE THE BOARD OF THE CATASTROPHIC HEALTH CARE COST PROGRAM TO PAY FOR AUTHORIZED EXPENSES TO MANAGE HEALTH CARE COSTS FOR INDIGENT PERSONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 31-3503, Idaho Code, be, and the same is hereby amended to read as follows:

31-3503. POWERS AND DUTIES OF COUNTY COMMISSIONERS. The county commissioners in their respective counties shall, under such limitations and restrictions as are prescribed by law:

(1) Pay for necessary medical services for the medically indigent residents of their counties as provided in this chapter and as approved by the county commissioners at the reimbursement rate up to the total sum of eleven thousand dollars (\$11,000) in the aggregate per resident in any consecutive twelve (12) month period or contract for the provision of necessary medical services pursuant to sections 31-3520 and 31-3521, Idaho Code.

(2) Have the right to contract with providers, transfer patients, negotiate provider agreements, conduct utilization management or any portion thereof, pay for authorized expenses directly, or indirectly through the use of alternative programs, that would assist in managing costs of providing health care for indigent persons, and all other powers incident to the county's duties created by this chapter.

(3) Cooperate with the department, the board and contractors retained by the department or the board to provide services including, but not limited to, medicaid eligibility review and utilization management on behalf of the counties and the board.

(4) Have the jurisdiction and power to provide county hospitals and public general hospitals for the county and others who are sick, injured, maimed, aged and infirm and to erect, enlarge, purchase, lease, or otherwise acquire, and to officer, maintain and improve hospitals, hospital grounds, nurses' homes, shelter care facilities and residential or assisted living facilities as defined in section 39-3301, Idaho Code, superintendent's quarters, medical clinics, as that term is defined in section 39-1319, Idaho Code, medical clinic grounds or any other necessary buildings, and to equip the same, and to replace equipment, and for this purpose said commissioners may levy an additional tax of not to exceed six hundredths percent (.06%) of the market value for assessment purposes on all taxable property within the county. The term "public general hospitals" as used in this subsection shall be construed to include nursing homes.

SECTION 2. That Section 31-3503A, Idaho Code, be, and the same is hereby amended to read as follows:

31-3503A. POWERS AND DUTIES OF THE BOARD. The board shall, under such limitations and restrictions as are prescribed by law:

(1) Pay for the cost of necessary medical services for a medically indigent resident, as provided in this chapter, where the cost of necessary medical services when paid at the reimbursement rate exceeds the total sum of

eleven thousand dollars (\$11,000) in the aggregate per resident in any consecutive twelve (12) month period;

(2) Have the right to negotiate provider agreements, contract for utilization management or any portion thereof, pay for authorized expenses directly, or indirectly through the use of alternative programs, that would assist in managing costs of providing health care for indigent persons, and all other powers incident to the board's duties created by this chapter;

(3) Cooperate with the department, respective counties of the state and contractors retained by the department or county commissioners to provide services including, but not limited to, eligibility review and utilization management on behalf of the counties and the board;

(4) Require, as the board deems necessary, annual reports from each county and each hospital including, but not limited to, the following:

(a) From each county and for each applicant:

(i) Case number and the date services began;

(ii) Age;

(iii) Residence;

(iv) Sex;

(v) Diagnosis;

(vi) Income;

(vii) Family size;

(viii) Amount of costs incurred including provider, legal and administrative charges;

(ix) Approval or denial; and

(x) Reasons for denial.

(b) From each hospital:

(i) 990 tax forms or comparable information;

(ii) Cost of charges where charitable care was provided; and

(iii) Administrative and legal costs incurred in processing claims under this chapter.

(5) Authorize all disbursements from the catastrophic health care cost program in accordance with the provisions of this chapter;

(6) Make and enter into contracts;

(7) Develop and submit a proposed budget setting forth the amount necessary to perform its functions and prepare an annual report;

(8) Perform such other duties as set forth in the laws of this state; and

(9) Conduct examinations, investigations, audits and hear testimony and take proof, under oath or affirmation, at public or private hearings, on any matter necessary to fulfill its duties.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to July 1, 2011.

Approved March 14, 2012.

CHAPTER 62
(H.B. No. 442)

AN ACT

RELATING TO NURSING HOME ADMINISTRATORS-IN-TRAINING; AMENDING SECTION 54-1610, IDAHO CODE, TO PROVIDE FOR AN APPLICANT TO BEGIN TRAINING PRIOR TO COMPLETION OF A BACCALAUREATE DEGREE.

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

SECTION 1. That Section 54-1610, Idaho Code, be, and the same is hereby amended to read as follows:

54-1610. ADMINISTRATORS-IN-TRAINING -- EXAMINATION AFTER ONE YEAR -- QUARTERLY REPORTS -- EXCEPTIONS. (1) Every applicant for a nursing home administrator license who shall have otherwise qualified under the provisions of section 54-1605, Idaho Code, except as provided for in this section, shall serve for a one (1) year period under the direct supervision of a duly licensed nursing home administrator in accordance with the rules of the board. At the expiration of the one-year-in-training period said applicant shall be eligible to take the examination.

(2) The nursing home administrator-in-training shall submit quarterly reports on forms provided therefor by the board.

(3) This section shall not apply to any individual who has successfully completed a course of study for a master's degree in health administration related to long-term care, or who has successfully completed a course of study for a master's degree in health administration and has one (1) year management experience in long-term care and who has been awarded such degree from an accredited institution of higher learning.

(4) Every nursing home administrator-in-training shall register the fact of such training with the board in accordance with the rules and on forms provided by the board.

(5) An applicant may begin the one (1) year nursing home administrator-in-training prior to completion of a baccalaureate degree.

Approved March 14, 2012.

CHAPTER 63
(H.B. No. 465)

AN ACT

RELATING TO PUBLIC WORKS CONTRACTORS' LICENSES; AMENDING SECTION 54-1904, IDAHO CODE, TO REVISE THE NUMBER OF CLASSES OF LICENSES, TO REVISE A LICENSE FEE AND TO PROVIDE PROVISIONS RELATING TO A CLASS "CC" LICENSE AND RELATED FEES.

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

SECTION 1. That Section 54-1904, Idaho Code, be, and the same is hereby amended to read as follows:

54-1904. CLASSES OF LICENSES -- RIGHTS GRANTED UNDER LICENSES -- FEES. (1) There shall be ~~seven~~ eight (78) classes of licenses issued under the provisions of this chapter which are hereby designated as Classes Unlimited, AAA, AA, A, B, CC, C and D, the maximum fee for which shall be as hereinafter specified. Each applicant for a license shall specify the class of license applied for in his application.

(2) For the purpose of licensing public works contractors under this chapter the board may adopt rules necessary to determine the classification according to their responsibility, and the type and scope of the operations of a licensed contractor to those in which he is classified and qualified to engage as in this chapter provided.

(3) The license classes shall be as follows:

(a) Class "Unlimited" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of more than five million dollars (\$5,000,000) may, upon application and payment of a license fee not to exceed six hundred dollars (\$600), be granted a Class "Unlimited" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "Unlimited" license shall be entitled to engage in the public works contracting business in this state as provided in said license. The renewal fee for a Class "Unlimited" license shall not exceed six hundred dollars (\$600). An applicant requesting a Class "Unlimited" license in heavy, highway, specialty or building construction shall have a minimum net worth of one million dollars (\$1,000,000) with six hundred thousand dollars (\$600,000) in working capital.

(b) Class "AAA" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than five million dollars (\$5,000,000) may, upon his application and the payment of a license fee not to exceed five hundred dollars (\$500), be granted a Class "AAA" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "AAA" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "AAA" license shall not exceed five hundred dollars (\$500).

(c) Class "AA" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than three million dollars (\$3,000,000) may, upon his application and the payment of a license fee not to exceed four hundred dollars (\$400), be granted a Class "AA" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "AA" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "AA" license shall not exceed four hundred dollars (\$400).

(d) Class "A" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than one million two hundred fifty thousand dollars (\$1,250,000) may, upon his application and the payment of a license fee not to exceed three hundred dollars (\$300), be granted a Class "A" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "A" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "A" license shall not exceed three hundred dollars (\$300).

(e) Class "B" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than six hundred thousand dollars (\$600,000), may, upon his application and the payment of a license fee not to exceed one two hundred fifty dollars (\$15200) be granted a Class "B" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "B" license shall be entitled to engage in the public works contracting business in the state

as provided in said license. The renewal fee for a Class "B" license shall not exceed one two hundred fifty dollars (\$15200).

(f) Class "CC" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than four hundred thousand dollars (\$400,000), may, upon his application and the payment of a license fee not to exceed one hundred fifty dollars (\$150), be granted a Class "CC" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "CC" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "CC" license shall not exceed one hundred fifty dollars (\$150).

(g) Class "C" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than two hundred thousand dollars (\$200,000), may, upon his application and the payment of a license fee not to exceed one hundred dollars (\$100), be granted a Class "C" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "C" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "C" license shall not exceed one hundred dollars (\$100).

(gh) Class "D" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than fifty thousand dollars (\$50,000), may, upon his application and the payment of a license fee not to exceed fifty dollars (\$50.00), be granted a Class "D" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "D" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "D" license shall not exceed fifty dollars (\$50.00).

(4) The board shall be vested with the power to fix annually the amount of the original and renewal license fees for each class of license for the ensuing license year. The amount of the license fee so fixed shall not exceed the maximum fee set forth in this section.

(5) Each license issued by the administrator shall clearly indicate the type and scope of work for which the licensee is qualified and licensed. The holder of the license shall be permitted to submit proposals for and perform only those types of work specified in each license. The administrator may extend the permissible type or scope of work to be done under any license when it is determined by the administrator that the applicant meets all of the requirements of this chapter to qualify him to do such other work.

(6) The total of any single bid on a given public works project, or the aggregate total of any split bids, or the aggregate of any base bid and any alternate bid items, or the aggregate total of any separate bid by a licensee of any class, except Class "Unlimited," shall not exceed the estimated cost or bid limit of the class of license held by the licensee. The aggregate total of bids shall include all bids of subcontractors. Subcontractor bids shall not be considered a separate bid for the purposes of computing the bid on a given public works project.

Approved March 14, 2012.

CHAPTER 64
(H.B. No. 472)

AN ACT

RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE A CODE REFERENCE; AND AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-420L, IDAHO CODE, TO ESTABLISH THE IDAHO TERRITORY SESQUICENTENNIAL SPECIAL LICENSE PLATE PROGRAM.

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

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

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

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

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

(8) 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.

(9) 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, and 49-420K and 49-420L, 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.

(10) 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.

SECTION 2. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-420L, Idaho Code, and to read as follows:

49-420L. IDAHO TERRITORY SESQUICENTENNIAL PLATES. (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, may apply for and upon department approval receive special Idaho territory sesquicentennial license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho territory sesquicentennial plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates and twenty-five dollars (\$25.00) upon each succeeding annual registration. Thirteen dollars (\$13.00) of the initial fee and thirteen dollars (\$13.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-two dollars (\$22.00) of each initial fee and twelve dollars (\$12.00) of each renewal fee shall be deposited by the department to the respective county historical society or designated entity in which the vehicle is registered and shall be used by such county historical society or designated entity to fund projects related to the Idaho territory sesquicentennial or to fund other projects that protect and preserve the heritage and cultural resources of the county.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may display the plates on another vehicle only upon receipt of the new registration from the department.

(4) The license plate design shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be approved by the department and shall use a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Lewiston historic preservation commission.

(5) Sample Idaho territory sesquicentennial license plates may be purchased for a fee of thirty dollars (\$30.00), thirteen dollars (\$13.00) of which shall be deposited in the state highway account and seventeen dollars (\$17.00) of which shall be transferred to the county historical society where the vehicle is registered.

Approved March 14, 2012.

CHAPTER 65
(H.B. No. 492)

AN ACT

RELATING TO THE UNIFORM SECURITIES ACT OF 2004; AMENDING SECTION 30-14-102, IDAHO CODE, TO PROVIDE A CORRECT CITATION; AMENDING SECTION 30-14-202, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 30-14-302, IDAHO CODE, TO PROVIDE CORRECT CITATIONS, TO REMOVE REFERENCE TO DOCUMENTS INCLUDED IN A NOTICE FILING, TO REMOVE A REFERENCE TO A LATE FEE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 30-14-402, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE, TO PROVIDE A CORRECT CITATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 30-14-412, IDAHO

CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 30-14-501, IDAHO CODE, TO PROHIBIT THE DIVERSION OF INVESTOR FUNDS FROM THEIR INTENDED USE IN CONNECTION WITH A SECURITIES TRANSACTION; AMENDING SECTION 30-14-502, IDAHO CODE, TO PROHIBIT THE DIVERSION OF INVESTOR FUNDS FROM THEIR INTENDED USE BY ONE PROVIDING INVESTMENT ADVICE; AMENDING SECTION 30-14-603, IDAHO CODE, TO PROVIDE A STATUTE OF LIMITATION FOR CIVIL SECURITIES ACTIONS BY THE DEPARTMENT OF FINANCE; AND AMENDING SECTION 30-14-611, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 30-14-102, Idaho Code, be, and the same is hereby amended to read as follows:

30-14-102. DEFINITIONS. In this chapter, unless the context otherwise requires:

(1) "Administrator" means the director of the Idaho department of finance or his designee.

(2) "Agent" means an individual, other than a broker-dealer, who represents a broker-dealer in effecting or attempting to effect purchases or sales of securities or who represents an issuer in effecting or attempting to effect purchases or sales of the issuer's securities. A partner, officer, or director of a broker-dealer or issuer, or an individual having a similar status or performing similar functions, is an agent only if the individual otherwise comes within the term. The term does not include an individual excluded by a rule adopted or an order issued under this chapter.

(3) "Bank" means:

(a) A banking institution organized under the laws of the United States;

(b) A member bank of the federal reserve system;

(c) Any other banking institution, whether incorporated or not, doing business under the laws of a state or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to be exercised by national banks under the authority of the comptroller of the currency pursuant to section 1 of public law 87-722 (12 U.S.C. 92a), and which is supervised and examined by a state or federal agency having supervision over banks, and which is not operated for the purpose of evading this chapter; and

(d) A receiver, conservator, or other liquidating agent of any institution or firm included in subparagraph (a), (b) or (c) of this subsection.

(4) "Broker-dealer" means a person engaged in the business of effecting transactions in securities for the account of others or for the person's own account. The term does not include:

(a) An agent;

(b) An issuer;

(c) A bank, a trust company organized or chartered under the laws of this state, or a savings institution if its activities as a broker-dealer are limited to those specified in subsections 3(a)(4)(b)(i) through (vi), (viii) through (x), and (xi) if limited to unsolicited transactions; 3(a)(5)(B); and 3(a)(5)(C) of the securities exchange act of 1934 (15 U.S.C. 78c(a)(4) and (5)) or a bank that satisfies the conditions described in subsection 3(a)(4)(E) of the securities exchange act of 1934 (15 U.S.C. 78c(a)(4));

(d) An international banking institution; or

(e) A person excluded by a rule adopted or an order issued under this chapter.

(5) "Depository institution" means:

(a) A bank; or

(b) A savings institution, trust company, credit union or similar institution that is organized or chartered under the laws of a state or of the United States that is authorized to receive deposits, and that is supervised and examined by an official or agency of a state or the United States if its deposits or share accounts are insured to the maximum amount authorized by statute by the federal deposit insurance corporation, the national credit union share insurance fund, or a successor authorized by federal law. The term does not include:

(i) An insurance company or other organization primarily engaged in the business of insurance;

(ii) A morris plan bank; or

(iii) An industrial loan company.

(6) "Federal covered investment adviser" means a person registered under the investment advisers act of 1940, as cited in section 30-14-103, Idaho Code.

(7) "Federal covered security" means a security that is, or upon completion of a transaction will be, a covered security under section 18(b) of the securities act of 1933 (15 U.S.C. 77r(b)) or rules or regulations adopted pursuant to that provision.

(8) "Filing" means the receipt under this chapter of a record by the administrator or a designee of the administrator.

(9) "Fraud," "deceit," and "defraud" are not limited to common law deceit.

(10) "Guaranteed" means guaranteed as to payment of all principal and all interest.

(11) "Institutional investor" means any of the following, whether acting for itself or for others in a fiduciary capacity:

(a) A depository institution, a trust company organized or chartered under the laws of this state, or an international banking institution;

(b) An insurance company;

(c) A separate account of an insurance company;

(d) An investment company as defined in the investment company act of 1940, as cited in section 30-14-103, Idaho Code;

(e) A broker-dealer registered under the securities exchange act of 1934, as cited in section 30-14-103, Idaho Code;

(f) An employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of ten million dollars (\$10,000,000) or its investment decisions are made by a named fiduciary, as defined in the employee retirement income security act of 1974, that is a broker-dealer registered under the securities exchange act of 1934, an investment adviser registered or exempt from registration under the investment advisers act of 1940, an investment adviser registered under this chapter, a depository institution, or an insurance company;

(g) A plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees, if the plan has total assets in excess of ten million dollars (\$10,000,000) or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the employee retirement income security act of 1974, that is a broker-dealer registered under the securities exchange act of 1934, an investment adviser registered or exempt from registration under the investment advisers act of 1940, an investment adviser registered under this chapter, a depository institution, or an insurance company;

(h) A trust, if it has total assets in excess of ten million dollars (\$10,000,000), its trustee is a depository institution, and its participants are exclusively plans of the types identified in paragraph (f) or

(g) of this subsection, regardless of the size of their assets, except a trust that includes as participants self-directed individual retirement accounts or similar self-directed plans;

(i) An organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)), a corporation, a Massachusetts trust or similar business trust, a limited liability company, or a partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of ten million dollars (\$10,000,000);

(j) A small business investment company licensed by the small business administration under section 301(c) of the small business investment act of 1958 (15 U.S.C. 681(c)) with total assets in excess of ten million dollars (\$10,000,000);

(k) A private business development company as defined in section 202(a)(22) of the investment advisers act of 1940 (15 U.S.C. 80b-2(a)(22)) with total assets in excess of ten million dollars (\$10,000,000);

(l) A federal covered investment adviser acting for its own account;

(m) A "qualified institutional buyer" as defined in rule 144A(a)(1), other than rule 144A(a)(1)(i)(H), adopted under the securities act of 1933 (17 CFR 230.144A);

(n) A "major U.S. institutional investor" as defined in rule 15a-6(b)(4)(i) adopted under the securities exchange act of 1934 (17 CFR 240.15a-6);

(o) Any other person, other than an individual, of institutional character with total assets in excess of ten million dollars (\$10,000,000) not organized for the specific purpose of evading this chapter; or

(p) Any other person specified by a rule adopted or an order issued under this chapter.

(12) "Insurance company" means a company organized as an insurance company whose primary business is writing insurance or reinsuring risks underwritten by insurance companies and which is subject to supervision by the insurance commissioner or a similar official or agency of a state.

(13) "Insured" means insured as to payment of all principal and all interest.

(14) "International banking institution" means an international financial institution of which the United States is a member and whose securities are exempt from registration under the securities act of 1933.

(15) "Investment adviser" means a person that, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing or selling securities or that, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. The term includes a financial planner or other person that, as an integral component of other financially related services, provides investment advice to others for compensation as part of a business or that holds itself out as providing investment advice to others for compensation. The term does not include:

(a) An investment adviser representative;

(b) A lawyer, accountant, engineer or teacher whose performance of investment advice is solely incidental to the practice of the person's profession;

(c) A broker-dealer or its agents whose performance of investment advice is solely incidental to the conduct of business as a broker-dealer and that does not receive special compensation for the investment advice;

(d) A publisher of a bona fide newspaper, news magazine, or business or financial publication of general and regular circulation;

(e) A federal covered investment adviser;

- (f) A bank, a trust company organized or chartered under the laws of this state, or a savings institution;
- (g) Any other person that is excluded by the investment advisers act of 1940 from the definition of investment adviser;
- (h) Any person who offers accountancy services to the public and who holds a valid, unrevoked and unsuspended license under the provisions of chapter 2, title 54, Idaho Code, designating said person as a certified public accountant or a licensed public accountant; or
- (i) Any other person excluded by a rule adopted or an order issued under this chapter.

(16) "Investment adviser representative" means an individual employed by or associated with an investment adviser or federal covered investment adviser who makes any recommendations or otherwise gives investment advice regarding securities, manages accounts or portfolios of clients, determines which recommendation or advice regarding securities should be given, provides investment advice or holds herself or himself out as providing investment advice, receives compensation to solicit, offer, or negotiate for the sale of or for selling investment advice, or supervises employees who perform any of the foregoing. The term does not include an individual who:

- (a) Performs only clerical or ministerial acts;
- (b) Is an agent whose performance of investment advice is solely incidental to the individual acting as an agent and who does not receive special compensation for investment advisory services;
- (c) Is employed by or associated with a federal covered investment adviser, unless the individual has a "place of business" in this state as that term is defined by rule adopted under section 203A of the investment advisers act of 1940 (15 U.S.C. 80b-3a) and is:
 - (i) An "investment adviser representative" as that term is defined by rule adopted under section 203A of the investment advisers act of 1940 (15 U.S.C. 80b-3a); or
 - (ii) Not a "supervised person" as that term is defined in section 202(a)(25) of the investment advisers act of 1940 (15 U.S.C. 80b-2(a)(25)); or

(d) Is excluded by a rule adopted or an order issued under this chapter.

(17) "Issuer" means a person that issues or proposes to issue a security, subject to the following:

- (a) The issuer of a voting trust certificate, collateral trust certificate, certificate of deposit for a security, or share in an investment company without a board of directors or individuals performing similar functions is the person performing the acts and assuming the duties of depositor or manager pursuant to the trust or other agreement or instrument under which the security is issued.
- (b) The issuer of an equipment trust certificate or similar security serving the same purpose is the person by which the property is or will be used or to which the property or equipment is or will be leased or conditionally sold or that is otherwise contractually responsible for assuring payment of the certificate.
- (c) The issuer of a fractional undivided interest in an oil, gas or other mineral lease or in payments out of production under a lease, right or royalty is the owner of an interest in the lease or in payments out of production under a lease, right or royalty, whether whole or fractional, that creates fractional interests for the purpose of sale.

(18) "Nonissuer transaction" or "nonissuer distribution" means a transaction or distribution not directly or indirectly for the benefit of the issuer.

(19) "Offer to purchase" includes an attempt or offer to obtain, or solicitation of an offer to sell, a security or interest in a security for value. The term does not include a tender offer that is subject to section 14(d) of the securities exchange act of 1934 (15 U.S.C. 78n(d)).

(20) "Person" means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

(21) "Place of business" of a broker-dealer, an investment adviser, or a federal covered investment adviser means:

(a) An office at which the broker-dealer, investment adviser, or federal covered investment adviser regularly provides brokerage or investment advice or solicits, meets with, or otherwise communicates with customers or clients; or

(b) Any other location that is held out to the general public as a location at which the broker-dealer, investment adviser, or federal covered investment adviser provides brokerage or investment advice or solicits, meets with, or otherwise communicates with customers or clients.

(22) "Predecessor act" means the act repealed by section 30-14-702, Idaho Code.

(23) "Price amendment" means the amendment to a registration statement filed under the securities act of 1933 or, if an amendment is not filed, the prospectus or prospectus supplement filed under the securities act of 1933 that includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent upon the offering price.

(24) "Principal place of business" of a broker-dealer or an investment adviser means the executive office of the broker-dealer or investment adviser from which the officers, partners or managers of the broker-dealer or investment adviser direct, control and coordinate the activities of the broker-dealer or investment adviser.

(25) "Record," except in the phrases "of record," "official record," and "public record," means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(26) "Sale" includes every contract of sale, contract to sell, or disposition of, a security or interest in a security for value. "Offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to purchase, a security or interest in a security for value. Both "sale" and "offer to sell" include:

(a) A security given or delivered with, or as a bonus on account of, a purchase of securities or any other thing constituting part of the subject of the purchase and having been offered and sold for value;

(b) A gift of assessable stock involving an offer and sale; and

(c) A sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer and a sale or offer of a security that gives the holder a present or future right or privilege to convert the security into another security of the same or another issuer, including an offer of the other security.

(27) "Securities and exchange commission" means the United States securities and exchange commission.

(28) "Security" means a note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in oil, gas or other mineral rights; put, call, straddle, option or privilege on a security, certificate of deposit, or group or index of securities, including an interest therein or based on the value thereof; put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; or, in general, an interest or instrument commonly known as a "security"; or a certificate of interest or participation in, temporary or interim

certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security":

- (a) Includes both a certificated and an uncertificated security;
- (b) Does not include an insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or other specified period;
- (c) Does not include an interest in a contributory or noncontributory pension or welfare plan subject to the employee retirement income security act of 1974;
- (d) Includes as an "investment contract" an investment in a common enterprise with the expectation of profits to be derived primarily from the efforts of a person other than the investor. "Common enterprise" means an enterprise in which the fortunes of the investor are interwoven with those of either the person offering the investment, a third party, or other investors; and
- (e) Includes as an "investment contract," among other contracts, an interest in a limited partnership and a limited liability company and an investment in a viatical settlement, life settlement or senior settlement or similar agreement.

(29) "Self-regulatory organization" means a national securities exchange registered under the securities exchange act of 1934, a national securities association of broker-dealers registered under the securities exchange act of 1934, a clearing agency registered under the securities exchange act of 1934, or the municipal securities rulemaking board established under the securities exchange act of 1934.

(30) "Sign" means, with present intent to authenticate or adopt a record:

- (a) To execute or adopt a tangible symbol; or
- (b) To attach or logically associate with the record an electronic symbol, sound or process.

(31) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

SECTION 2. That Section 30-14-202, Idaho Code, be, and the same is hereby amended to read as follows:

30-14-202. EXEMPT TRANSACTIONS. The following transactions are exempt from the requirements of sections 30-14-301 through 30-14-306, Idaho Code, and section 30-14-504, Idaho Code:

(1) An isolated nonissuer transaction, whether or not effected by or through a broker-dealer;

(2) A nonissuer transaction by or through a broker-dealer registered, or exempt from registration under this chapter, and a resale transaction by a sponsor of a unit investment trust registered under the investment company act of 1940, in a security of a class that has been outstanding in the hands of the public for at least ninety (90) days, if, at the date of the transaction:

- (a) The issuer of the security is engaged in business, the issuer is not in the organizational stage or in bankruptcy or receivership, and the issuer is not a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person;
- (b) The security is sold at a price reasonably related to its current market price;
- (c) The security does not constitute the whole or part of an unsold allotment to, or a subscription or participation by, the broker-dealer as an underwriter of the security or a redistribution;

(d) A nationally recognized securities manual or its electronic equivalent designated by any rule adopted or an order issued under this chapter or a record filed with the securities and exchange commission that is publicly available and contains:

- (i) A description of the business and operations of the issuer;
- (ii) The names of the issuer's executive officers and the names of the issuer's directors, if any;
- (iii) An audited balance sheet of the issuer as of a date within eighteen (18) months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had an audited balance sheet, a pro forma balance sheet for the combined organization; and
- (iv) An audited income statement for each of the issuer's two (2) immediately previous fiscal years or for the period of existence of the issuer, whichever is shorter, or, in the case of a reorganization or merger when each party to the reorganization or merger had audited income statements, a pro forma income statement; and

(e) Any one (1) of the following requirements is met:

- (i) The issuer of the security has a class of equity securities listed on a national securities exchange registered under section 6 of the securities exchange act of 1934 or designated for trading on the national association of securities dealers automated quotation system;
- (ii) The issuer of the security is a unit investment trust registered under the investment company act of 1940;
- (iii) The issuer of the security, including its predecessors, has been engaged in continuous business for at least three (3) years; or
- (iv) The issuer of the security has total assets of at least two million dollars (\$2,000,000) based on an audited balance sheet as of a date within eighteen (18) months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had such an audited balance sheet, a pro forma balance sheet for the combined organization;

(3) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in a security of a foreign issuer that is a margin security defined in regulations or rules adopted by the board of governors of the federal reserve system;

(4) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in an outstanding security if the guarantor of the security files reports with the securities and exchange commission under the reporting requirements of section 13 or 15(d) of the securities exchange act of 1934 (15 U.S.C. 78m or 78o(d));

(5) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in a security that:

(a) Is rated at the time of the transaction by a nationally recognized statistical rating organization in one (1) of its four (4) highest rating categories; or

(b) Has a fixed maturity or a fixed interest or dividend, if:

(i) A default has not occurred during the current fiscal year or within the three (3) previous fiscal years of the issuer or any predecessor, in the payment of principal, interest, or dividends on the security; and

(ii) The issuer is engaged in business, is not in the organizational stage or in bankruptcy or receivership, and is not and has not been within the previous twelve (12) months a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is

to engage in a merger or combination of the business with, or an acquisition of, an unidentified person;

(6) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter effecting an unsolicited order or offer to purchase;

(7) A nonissuer transaction executed by a bona fide pledgee without the purpose of evading this chapter;

(8) A nonissuer transaction by a federal covered investment adviser with investments under management in excess of one hundred million dollars (\$100,000,000) acting in the exercise of discretionary authority in a signed record for the account of others;

(9) A transaction in a security, whether or not the security or transaction is otherwise exempt, in exchange for one (1) or more bona fide outstanding securities, claims, or property interests, or partly in such exchange and partly for cash, if the terms and conditions of the issuance and exchange or the delivery and exchange and the fairness of the terms and conditions have been approved by the administrator after a hearing as provided in section 30-14-202A, Idaho Code, or otherwise;

(10) A transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(11) A transaction in a note, bond, debenture or other evidence of indebtedness secured by a mortgage or other security agreement if the note, bond, debenture or other evidence of indebtedness is offered and sold with the mortgage or other security agreement as a unit;

(12) A transaction by an executor, administrator of an estate, sheriff, marshal, receiver, trustee in bankruptcy, guardian or conservator;

(13) A sale or offer to sell to:

(a) An institutional investor;

(b) A federal covered investment adviser; or

(c) Any other person exempted by a rule adopted or an order issued under this chapter;

(14) A sale or an offer to sell securities of an issuer, if the transaction is part of a single issue in which:

(a) Not more than ten (10) purchasers are present in this state during any twelve (12) consecutive months, other than those designated in subsection (13) of this section;

(b) A general solicitation or general advertising is not made in connection with the offer to sell or sale of the securities;

(c) A commission or other remuneration is not paid or given, directly or indirectly, to a person other than a broker-dealer registered under this chapter or an agent registered under this chapter for soliciting a prospective purchaser in this state; and

(d) The issuer reasonably believes that all the purchasers in this state, other than those designated in subsection (13) of this section, are purchasing for investment;

(15) A transaction under an offer to existing security holders of the issuer, including persons that at the date of the transaction are holders of convertible securities, options or warrants, if a commission or other remuneration, other than a standby commission, is not paid or given, directly or indirectly, for soliciting a security holder in this state;

(16) An offer to sell, but not a sale, of a security not exempt from registration under the securities act of 1933 if:

(a) A registration or offering statement or similar record as required under the securities act of 1933 has been filed, but is not effective, or the offer is made in compliance with rule 165 adopted under the securities act of 1933 (17 CFR 230.165); and

(b) A stop order of which the offeror is aware has not been issued against the offeror by the administrator or the securities and exchange commission, and an audit, inspection or proceeding that is public and

that may culminate in a stop order is not known by the offeror to be pending;

(17) An offer to sell, but not a sale, of a security exempt from registration under the securities act of 1933 if:

(a) A registration statement has been filed under this chapter, but is not effective;

(b) A solicitation of interest is provided in a record to offerees in compliance with a rule adopted by the administrator under this chapter; and

(c) A stop order of which the offeror is aware has not been issued by the administrator under this chapter and an audit, inspection or proceeding that may culminate in a stop order is not known by the offeror to be pending;

(18) A transaction involving the distribution of the securities of an issuer to the security holders of another person in connection with a merger, consolidation, exchange of securities, sale of assets, or other reorganization to which the issuer, or its parent or subsidiary and the other person, or its parent or subsidiary, are parties;

(19) A rescission offer, sale or purchase under section 30-14-510, Idaho Code;

(20) An offer or sale of a security to a person not a resident of this state and not present in this state if the offer or sale does not constitute a violation of the laws of the state or foreign jurisdiction in which the offeree or purchaser is present and is not part of an unlawful plan or scheme to evade this chapter;

(21) Employees' stock purchase, savings, option, profit-sharing, pension, or similar employees' benefit plan, including any securities, plan interests, and guarantees issued under a compensatory benefit plan or compensation contract, contained in a record, established by the issuer, its parents, its majority-owned subsidiaries, or the majority-owned subsidiaries of the issuer's parent for the participation of their employees including offers or sales of such securities to:

(a) Directors; general partners; trustees, if the issuer is a business trust; officers; consultants; and advisers;

(b) Family members who acquire such securities from those persons through gifts or domestic relations orders;

(c) Former employees, directors, general partners, trustees, officers, consultants and advisers if those individuals were employed by or providing services to the issuer when the securities were offered; and

(d) Insurance agents who are exclusive insurance agents of the issuer, or the issuer's subsidiaries or parents, or who derive more than fifty percent (50%) of their annual income from those organizations;

(22) A transaction involving:

(a) A stock dividend or equivalent equity distribution, whether the corporation or other business organization distributing the dividend or equivalent equity distribution is the issuer or not, if nothing of value is given by stockholders or other equity holders for the dividend or equivalent equity distribution other than the surrender of a right to a cash or property dividend if each stockholder or other equity holder may elect to take the dividend or equivalent equity distribution in cash, property or stock;

(b) An act incident to a judicially approved reorganization in which a security is issued in exchange for one (1) or more outstanding securities, claims, or property interests, or partly in such exchange and partly for cash; or

(c) The solicitation of tenders of securities by an offeror in a tender offer in compliance with rule 162 adopted under the securities act of 1933 (17 CFR 230.162); or

(23) A nonissuer transaction in an outstanding security by or through a broker-dealer registered or exempt from registration under this chapter, if the issuer is a reporting issuer in a foreign jurisdiction designated by this subsection or by a rule adopted or an order issued under this chapter; has been subject to continuous reporting requirements in the foreign jurisdiction for not less than one hundred eighty (180) days before the transaction; and the security is listed on the foreign jurisdiction's securities exchange that has been designated by this subsection or by a rule adopted or an order issued under this chapter, or is a security of the same issuer that is of senior or substantially equal rank to the listed security or is a warrant or right to purchase or subscribe to any of the foregoing. For purposes of this subsection, Canada, together with its provinces and territories, is a designated foreign jurisdiction and the Toronto stock exchange, inc., is a designated securities exchange. After an administrative hearing in compliance with chapter 52, title 67, Idaho Code, the administrator, by rule adopted or an order issued under this chapter, may revoke the designation of a securities exchange under this subsection, if the administrator finds that revocation is necessary or appropriate in the public interest and for the protection of investors.

SECTION 3. That Section 30-14-302, Idaho Code, be, and the same is hereby amended to read as follows:

30-14-302. NOTICE FILING. (a) Required filing of records. With respect to a federal covered security, as defined in section 18(b)(2) of the securities act of 1933 (15 U.S.C. 77r(b)(2)), that is not otherwise exempt under sections 30-14-201 through 30-14-203, Idaho Code, a rule adopted or an order issued under this chapter may require the filing of any or all of the following records:

- (1) Before the initial offer of a federal covered security in this state, all records that are part of a federal registration statement filed with the securities and exchange commission under the securities act of 1933 and a consent to service of process complying with section 30-14-611, Idaho Code, signed by the issuer and the payment of a fee of three hundred dollars (\$300) for mutual funds and one hundred dollars (\$100) for unit investment trusts;
- (2) After the initial offer of the federal covered security in this state, all records that are part of an amendment to a federal registration statement filed with the securities and exchange commission under the securities act of 1933; and
- (3) To the extent necessary or appropriate to compute fees, a report of the value of the federal covered securities sold or offered to persons present in this state, if the sales data are not included in records filed with the securities and exchange commission; and
- (4) Each series or portfolio of an investment company offering shall be required to make a separate notice filing. Separate notice filings for classes of an investment company are not required so long as classes are used solely as a method of distinguishing payment plans within a series or portfolio.

(b) Notice filing effectiveness and renewal. A notice filing under subsection (a) of this section is effective for one (1) year commencing on the later of the notice filing or the effectiveness of the offering filed with the securities and exchange commission. On or before expiration, the issuer may renew a notice filing by filing a copy of those records filed by the issuer with the securities and exchange commission that are required by rule or order under this chapter to be filed and by paying a renewal fee of three hundred dollars (\$300) for mutual funds and one hundred dollars (\$100) for unit investment trusts. A previously filed consent to service of process complying with section 30-14-611, Idaho Code, may be incorporated by

reference in a renewal. A renewed notice filing becomes effective upon the expiration of the filing being renewed.

(c) Notice filings for federal covered securities under section 18(b)(4) (dD). With respect to a security that is a federal covered security under section 18(b)(4) (dD) of the securities act of 1933 (15 U.S.C. 77r(b)(4) (dD)), a rule or order under this chapter may require a notice filing by or on behalf of an issuer to include a copy of form D, including the appendix, as promulgated by the securities and exchange commission, and a consent to service of process complying with section 30-14-611, Idaho Code, signed by the issuer not later than fifteen (15) days after the first sale of the federal covered security in this state and the payment of a fee of fifty dollars (\$50.00) ~~and the payment of a fee of fifty dollars (\$50.00) for any late filing.~~

(d) Stop orders. Except with respect to a federal security under section 18(b)(1) of the securities act of 1933 (15 U.S.C. 77r(b)(1)), if the administrator finds that there is a failure to comply with a notice or fee requirement of this section, the administrator may issue a stop order suspending the offer and sale of a federal covered security in this state. If the deficiency is corrected, the stop order is void as of the time of its issuance and no penalty may be imposed by the administrator.

SECTION 4. That Section 30-14-402, Idaho Code, be, and the same is hereby amended to read as follows:

30-14-402. AGENT REGISTRATION REQUIREMENT AND EXEMPTIONS. (a) Registration requirement. It is unlawful for an individual to transact business in this state as an agent unless the individual is registered under this chapter as an agent or is exempt from registration as an agent under subsection (b) of this section.

(b) Exemptions from registration. The following individuals are exempt from the registration requirement of subsection (a) of this section:

(1) An individual who represents a broker-dealer in effecting transactions in this state limited to those described in section 15(h)(2) of the securities exchange act of 1934 (15 U.S.C. 78(~~o~~h)(2));

(2) An individual who represents a broker-dealer that is exempt under section 30-14-401(b) or (d), Idaho Code;

(3) An individual who represents an issuer with respect to an offer or sale of the issuer's own securities or those of the issuer's parent or any of the issuer's subsidiaries, and who is not compensated in connection with the individual's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities;

(4) An individual who represents an issuer and who effects transactions in the issuer's securities exempted by section 30-14-202, Idaho Code, other than sections ~~30-14-202(11) and 30-14-202(14)~~, Idaho Code;

(5) An individual who represents an issuer that effects transactions solely in federal covered securities of the issuer, provided however that an individual who effects transactions in a federal covered security under section 18(b)(3) or 18(b)(4) (dD) of the securities act of 1933 (15 U.S.C. 77r(b)(3) or 77r(b)(4) (D)) is not exempt if the individual is compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities;

(6) An individual who represents a broker-dealer registered in this state under section 30-14-401(a), Idaho Code, or exempt from registration under section 30-14-401(b), Idaho Code, in the offer and sale of securities for an account of a nonaffiliated federal covered investment adviser with investments under management in excess of one hundred mil-

lion dollars (\$100,000,000) acting for the account of others pursuant to discretionary authority in a signed record;

(7) An individual who represents an issuer in connection with the purchase of the issuer's own securities;

(8) An individual who represents an issuer and who restricts participation to performing clerical or ministerial acts; or

(9) Any other individual exempted by a rule adopted or an order issued under this chapter.

(c) Registration effective only while employed or associated. The registration of an agent is effective only while the agent is employed by or associated with a broker-dealer registered under this chapter or an issuer that is offering, selling or purchasing its securities in this state.

(d) Limit on employment or association. It is unlawful for a broker-dealer, or an issuer engaged in offering, selling or purchasing securities in this state, to employ or associate with an agent who transacts business in this state on behalf of broker-dealers or issuers unless the agent is registered under subsection (a) of this section or is exempt from registration under subsection (b) of this section.

(e) Limit on affiliations. Unless prohibited by a rule adopted or an order issued under this chapter, an individual may act as an agent for more than one (1) broker-dealer or one (1) issuer at a time.

SECTION 5. That Section 30-14-412, Idaho Code, be, and the same is hereby amended to read as follows:

30-14-412. DENIAL, REVOCATION, SUSPENSION, WITHDRAWAL, RESTRICTION, CONDITION OR LIMITATION OF REGISTRATION. (a) Disciplinary conditions -- Applicants. If the administrator finds that the order is in the public interest and subsection (d) of this section authorizes the action, an order issued under this chapter may deny an application, or may condition or limit registration of an applicant to be a broker-dealer, agent, investment adviser or investment adviser representative, and, if the applicant is a broker-dealer or investment adviser, ~~or a~~ of any partner, officer, director or person having a similar status or performing similar functions, or a person directly or indirectly in control, of the broker-dealer or investment adviser.

(b) Disciplinary conditions -- Registrants. If the administrator finds that the order is in the public interest and subsection (d) of this section authorizes the action, an order issued under this chapter may revoke, suspend, condition or limit the registration of a registrant and, if the registrant is a broker-dealer or investment adviser, ~~or a~~ of any partner, officer, director or person having a similar status or performing similar functions, or a person directly or indirectly in control, of the broker-dealer or investment adviser. Provided however, the administrator may not:

(1) Institute a revocation or suspension proceeding under this subsection based on an order issued under a law of another state that is reported to the administrator or a designee of the administrator more than one (1) year after the date of the order on which it is based; or

(2) Under subsection (d) (5) (A) or (B) of this section, issue an order on the basis of an order issued under the securities act of another state unless the other order was based on conduct for which subsection (d) of this section would authorize the action had the conduct occurred in this state.

(c) Disciplinary penalties -- Registrants. If the administrator finds that the order is in the public interest and subsections (d) (1) through (6), (8), (9), (10), (12) or (13) of this section authorizes the action, an order under this chapter may censure, impose a bar or suspension from association with a broker-dealer or investment adviser registered in this state, or impose a civil penalty in an amount not to exceed five thousand

dollars (\$5,000) for each violation, on a registrant and, if the registrant is a broker-dealer or investment adviser, a partner, officer, director or person having a similar status or performing similar functions, or a person directly or indirectly in control, of the broker-dealer or investment adviser.

(d) Grounds for discipline. A person may be disciplined under subsections (a) through (c) of this section if the person:

(1) Has filed an application for registration in this state under this chapter or the predecessor act within the previous ten (10) years, which, as of the effective date of registration or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained a statement that, in light of the circumstances under which it was made, was false or misleading with respect to a material fact;

(2) Willfully violated or willfully failed to comply with this chapter or the predecessor act or a rule adopted or an order issued under this chapter or the predecessor act within the previous ten (10) years;

(3) Has been convicted of any felony or within the previous ten (10) years has been convicted of a misdemeanor involving a security, a commodity future or option contract, or an aspect of a business involving securities, commodities, investments, franchises, insurance, banking or finance;

(4) Is enjoined or restrained by a court of competent jurisdiction in an action instituted by the administrator under this chapter or the predecessor act, a state, the securities and exchange commission, or the United States from engaging in or continuing an act, practice or course of business involving an aspect of a business involving securities, commodities, investments, franchises, insurance, banking or finance;

(5) Is the subject of an order, issued after notice and opportunity for hearing by:

(A) The securities, depository institution, insurance or other financial services regulator of a state or by the securities and exchange commission or other federal agency denying, revoking, barring or suspending registration as a broker-dealer, agent, investment adviser, federal covered investment adviser, or investment adviser representative;

(B) The securities regulator of a state or the securities and exchange commission against a broker-dealer, agent, investment adviser, investment adviser representative, or federal covered investment adviser;

(C) The securities and exchange commission or a self-regulatory organization suspending or expelling the registrant from membership in the self-regulatory organization;

(D) A court adjudicating a United States postal service fraud order;

(E) The insurance regulator of a state denying, suspending or revoking registration as an insurance agent; or

(F) A depository institution regulator suspending or barring the person from the depository institution business;

(6) Is the subject of an adjudication or determination, after notice and opportunity for hearing, by the securities and exchange commission, the commodity futures trading commission; the federal trade commission; a federal depository institution regulator, or a depository institution, insurance or other financial services regulator of a state that the person willfully violated the securities act of 1933, the securities exchange act of 1934, the investment advisers act of 1940, the investment company act of 1940, or the commodity exchange act, the securities or commodities law of a state, or a federal or state law under

which a business involving investments, franchises, insurance, banking or finance is regulated;

(7) Is insolvent, either because the person's liabilities exceed the person's assets or because the person cannot meet the person's obligations as they mature, provided however that the administrator may not enter an order against an applicant or registrant under this paragraph (7) without a finding of insolvency as to the applicant or registrant;

(8) Refuses to allow or otherwise impedes the administrator from conducting an audit or inspection under section 30-14-411(d), Idaho Code, or refuses access to a registrant's office to conduct an audit or inspection under section 30-14-411(d), Idaho Code;

(9) Has failed to reasonably supervise an agent, investment adviser representative or other individual, if the agent, investment adviser representative or other individual was subject to the person's supervision and committed a violation of this chapter or the predecessor act or a rule adopted or an order issued under this chapter or the predecessor act within the previous ten (10) years;

(10) Has not paid the proper filing fee within thirty (30) days after having been notified by the administrator of a deficiency, provided however that the administrator shall vacate an order under this paragraph (10) when the deficiency is corrected;

(11) After notice and opportunity for a hearing, has been found within the previous ten (10) years:

(A) By a court of competent jurisdiction to have willfully violated the laws of a foreign jurisdiction under which the business of securities, commodities, investment, franchises, insurance, banking or finance is regulated;

(B) To have been the subject of an order of a securities regulator of a foreign jurisdiction denying, revoking or suspending the right to engage in the business of securities as a broker-dealer, agent, investment adviser, investment adviser representative or similar person; or

(C) To have been suspended or expelled from membership by or participation in a securities exchange or securities association operating under the securities laws of a foreign jurisdiction;

(12) Is the subject of a cease and desist order issued by the securities and exchange commission or issued under the securities, commodities, investment, franchise, banking, finance or insurance laws of a state;

(13) Has engaged in dishonest or unethical practices in the securities, commodities, investment, franchise, banking, finance or insurance business within the previous ten (10) years; or

(14) Is not qualified on the basis of factors such as training, experience and knowledge of the securities business. Provided however, in the case of an application by an agent for a broker-dealer that is a member of a self-regulatory organization or by an individual for registration as an investment adviser representative, a denial order may not be based on this paragraph (14) if the individual has successfully completed all examinations required by subsection (e) of this section. The administrator may require an applicant for registration under section 30-14-402 or 30-14-404, Idaho Code, who has not been registered in a state within the two (2) years preceding the filing of an application in this state to successfully complete an examination.

(e) Examinations. A rule adopted or an order issued under this chapter may require that an examination, including an examination developed or approved by an organization of securities regulators, be successfully completed by a class of individuals or all individuals. An order issued under this chapter may waive, in whole or in part, an examination as to an individual and a rule adopted under this chapter may waive, in whole or in part, an examination as to a class of individuals if the administrator determines

that the examination is not necessary or appropriate in the public interest and for the protection of investors.

(f) Summary process. The administrator may suspend or deny an application summarily; restrict, condition, limit or suspend a registration; or censure, bar, or impose a civil penalty on a registrant before final determination of an administrative proceeding. Upon the issuance of an order, the administrator shall promptly notify each person subject to the order that the order has been issued, the reasons for the action, and that within fifteen (15) days after the receipt of a request in a record from the person the matter will be scheduled for a hearing. If a hearing is not requested and none is ordered by the administrator within thirty (30) days after the date of service of the order, the order becomes final by operation of law. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend the order until final determination.

(g) Procedural requirements. An order issued may not be issued under this section, except under subsection (f) of this section, without:

- (1) Appropriate notice to the applicant or registrant;
- (2) Opportunity for hearing; and
- (3) Findings of fact and conclusions of law in a record in accordance with chapter 52, title 67, Idaho Code.

(h) Control person liability. A person that controls, directly or indirectly, a person not in compliance with this section may be disciplined by order of the administrator under subsections (a) through (c) of this section to the same extent as the noncomplying person, unless the controlling person did not know, and in the exercise of reasonable care could not have known, of the existence of conduct that is a ground for discipline under this section.

(i) Limit on investigation or proceeding. The administrator may not institute a proceeding under subsection (a), (b) or (c) of this section based solely on material facts actually known by the administrator unless an investigation or the proceeding is instituted within one (1) year after the administrator actually acquires knowledge of the material facts.

SECTION 6. That Section 30-14-501, Idaho Code, be, and the same is hereby amended to read as follows:

30-14-501. GENERAL FRAUD. It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly:

- (1) To employ a device, scheme, or artifice to defraud;
- (2) To make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; ~~or~~
- (3) To engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person; or
- (4) To divert investor money to the personal use of the issuer, offeror or seller, or to pay prior investors without specifically disclosing that use before receiving the investor's money.

SECTION 7. That Section 30-14-502, Idaho Code, be, and the same is hereby amended to read as follows:

30-14-502. PROHIBITED CONDUCT IN PROVIDING INVESTMENT ADVICE. (a) Fraud in providing investment advice. It is unlawful for a person that advises others for compensation, either directly or indirectly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing or selling securities or that, for compensation and as part of a regular business, issues or promulgates analyses or reports relating to securities:

- (1) To employ a device, scheme, or artifice to defraud another person;
or
- (2) To engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person; or
- (3) To divert investor money to the personal use of the issuer, offeror or seller, or to pay prior investors without specifically disclosing that use before receiving the investor's money.

(b) Rules defining fraud. A rule adopted under this chapter may define an act, practice, or course of business of an investment adviser or an investment adviser representative, as fraudulent, deceptive or manipulative, and prescribe means reasonably designed to prevent investment advisers and investment adviser representatives, from engaging in acts, practices, and courses of business defined as fraudulent, deceptive or manipulative.

(c) Rules specifying contents of advisory contract. A rule adopted or an order issued under this chapter may specify the contents of an investment advisory contract entered into, extended or renewed by an investment adviser.

SECTION 8. That Section 30-14-603, Idaho Code, be, and the same is hereby amended to read as follows:

30-14-603. CIVIL ENFORCEMENT. (a) Civil action instituted by administrator. If the administrator believes that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this chapter or a rule adopted or an order issued under this chapter or that a person has, is, or is about to engage in an act, practice, or course of business that materially aids a violation of this chapter or a rule adopted or an order issued under this chapter, the administrator may maintain an action in any court of competent jurisdiction to enjoin the act, practice, or course of business and to enforce compliance with this chapter or a rule adopted or an order issued under this chapter.

(b) Relief available. In an action under this section and on a proper showing, the court may:

- (1) Issue a permanent or temporary injunction, restraining order, or declaratory judgment;
- (2) Order other appropriate or ancillary relief, which may include:
 - (A) An asset freeze, accounting, writ of attachment, writ of general or specific execution, and appointment of a receiver or conservator, that may be the administrator, for the defendant or the defendant's assets;
 - (B) Ordering the administrator to take charge and control of a defendant's property, including investment accounts and accounts in a depository institution, rents, and profits; to collect debts; and to acquire and dispose of property;
 - (C) Imposing a civil penalty not to exceed ten thousand dollars (\$10,000) for each violation; an order of rescission, restitution, or disgorgement directed to a person that has engaged in an act, practice, or course of business constituting a violation of this chapter or the predecessor act or a rule adopted or an order issued under this chapter or the predecessor act; and
 - (D) Ordering the payment of prejudgment and postjudgment interest; or
- (3) Order such other relief as the court considers appropriate.

(c) No bond required. The administrator shall not be required to post a bond in an action or proceeding under this chapter.

(d) Statute of limitation. If the administrator brings a civil action under this section, such action must be instituted within three (3) years from the discovery by the administrator of the facts constituting the alleged violation.

SECTION 9. That Section 30-14-611, Idaho Code, be, and the same is hereby amended to read as follows:

30-14-611. SERVICE OF PROCESS. (a) Signed consent to service of process. A consent appointing the administrator the person's agent for service of process in a noncriminal action or proceeding against the person, or the person's successor or personal representative under this chapter or a rule adopted or an order issued under this chapter after the consent is filed, has the same force and validity as if the service were made personally on the person filing the consent. ~~From July 1, 2005, and thereafter,~~ Registrants shall be required to submit a consent to service of process only if there has been a material change.

(b) Conduct constituting appointment of agent for service. If a person, including a nonresident of this state, engages in an act, practice, or course of business prohibited or made actionable by this chapter or a rule adopted or an order issued under this chapter and the person has not filed a consent to service of process under subsection (a) of this section, the act, practice, or course of business constitutes the appointment of the administrator as the person's agent for service of process in a noncriminal action or proceeding against the person or the person's successor or personal representative.

(c) Procedure for service of process. Service under subsection (a) or (b) of this section may be made by providing a copy of the process to the office of the administrator, but it is not effective unless:

(1) The plaintiff, which may be the administrator, promptly sends notice of the service and a copy of the process, return receipt requested, to the defendant or respondent at the address set forth in the consent to service of process or, if a consent to service of process has not been filed, at the last known address, or takes other reasonable steps to give notice; and

(2) The plaintiff files an affidavit of compliance with this subsection in the action or proceeding on or before the return day of the process, if any, or within the time that the court, or the administrator in a proceeding before the administrator, allows.

(d) Service in administrative proceedings or civil actions by administrator. Service pursuant to subsection (c) of this section may be used in a proceeding before the administrator or by the administrator in a civil action in which the administrator is the moving party.

(e) Opportunity to defend. If process is served under subsection (c) of this section, the court, or the administrator in a proceeding before the administrator, shall order continuances as are necessary or appropriate to afford the defendant or respondent reasonable opportunity to defend.

Approved March 14, 2012.

CHAPTER 66
(H.B. No. 499)

AN ACT

RELATING TO SCHOOL BUILDING MAINTENANCE; AMENDING SECTION 33-1019, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE SUBMISSION BY SCHOOL DISTRICTS OF CERTAIN INFORMATION TO THE STATE DEPARTMENT OF EDUCATION; AND AMENDING SECTION 39-8006A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE SUBMISSION BY EACH SCHOOL DISTRICT OF A CERTAIN PLAN TO THE DIVISION OF BUILDING SAFETY AND TO REVISE PROVISIONS RELATING TO THE INFORMATION INCLUDED IN SUCH PLAN.

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

SECTION 1. That Section 33-1019, Idaho Code, be, and the same is hereby amended to read as follows:

33-1019. ALLOCATION FOR SCHOOL BUILDING MAINTENANCE REQUIRED. (1) School districts shall annually allocate moneys for school building maintenance from any source available to the district equal to at least two percent (2%) of the replacement value of school buildings, less the receipt of state funds as provided in this section. Any school district expending more than four percent (4%) of the replacement value of school buildings for school building maintenance in any single fiscal year, beginning with the expenditures of fiscal year 2005, may apply the excess as a credit against the two percent (2%) requirement of this section until such credit is depleted or fifteen (15) years have expired. The state shall annually provide funds to be allocated for school building maintenance as follows:

(a) Divide one (1) by the school district's value index for the fiscal year, as calculated pursuant to section 33-906B, Idaho Code; and

(b) Multiply the result by one-half of one percent (0.5%) of the replacement value of school buildings.

(c) For purposes of the calculation in this subsection (1), public charter schools shall be assigned a value index of one (1).

(2) State funds shall be appropriated through the educational support program/division of facilities and disbursed from the school district building account. The order of funding sources used to meet the state funding requirements of this section shall be as follows:

(a) State lottery funds distributed pursuant to section 33-905(2), Idaho Code;

(b) If state lottery funds are insufficient to meet the state funding requirements of this section, then other state funds available pursuant to section 33-905(3), Idaho Code, shall be utilized; and

(c) If the funds in paragraphs (a) and (b) of this subsection (2) are insufficient to meet the state funding requirements of this section, then funds available pursuant to section 33-1018B, Idaho Code, shall be utilized.

(3) Moneys allocated for school building maintenance shall be used exclusively for the maintenance and repair of school buildings or any serious or imminent safety hazard on the property of said school buildings as identified pursuant to chapter 80, title 39, Idaho Code, and shall be utilized, first, to abate serious or imminent safety hazards, as identified pursuant to chapter 80, title 39, Idaho Code. Unexpended moneys in a school district's school building maintenance allocation shall be carried over from year to year and shall remain allocated for the purposes specified in this subsection (3). The replacement value of school buildings shall be determined by multiplying the number of square feet of building floor space in school buildings by eighty-one dollars and forty-five cents (\$81.45). Notwithstanding the definition in subsection (8) of this section, school buildings that are less than one (1) year old on the first day of school shall not be used in the replacement value calculation. The joint finance-appropriations committee shall annually review the replacement value per square foot when setting appropriations for the educational support program and may make adjustments to this figure as necessary.

(4) For school buildings first occupied between July 1, 2009, through September 30, 2019, regarding the replacement value calculation that school districts are directed to use to determine the amount of moneys such districts shall allocate for school building maintenance as directed by subsection (1) of this section, a portion of the square footage of school buildings first occupied on or after July 1, 2009, and constructed pursuant to the provisions of section 33-356, Idaho Code, shall not be used in the replacement value calculation, based on the following schedule:

- (a) For school buildings at least one (1) year old but less than two (2) years old on the first day of school, exclude one hundred percent (100%) of the square footage;
- (b) For school buildings at least two (2) years old but less than three (3) years old on the first day of school, exclude eighty percent (80%) of the square footage;
- (c) For school buildings at least three (3) years old but less than four (4) years old on the first day of school, exclude sixty percent (60%) of the square footage;
- (d) For school buildings at least four (4) years old but less than five (5) years old on the first day of school, exclude forty percent (40%) of the square footage; and
- (e) For school buildings at least five (5) years old but less than six (6) years old on the first day of school, exclude twenty percent (20%) of the square footage.

(5) The amount of relief provided to any school district pursuant to subsection (4) of this section shall not exceed the amount that would be provided if the school district had a value index of one (1).

(6) School districts shall submit the following to the state department of education by not later than the third Friday in December 1:

- (a) The number of square feet of school building floor space; and
- (b) The funds and fund sources allocated for school building maintenance and any unexpended allocations carried forward from prior fiscal years; and
- (c) The projects on which moneys from the school district's school building maintenance allocation were expended, and the amount and categories of expenditures; and
- (d) The planned uses of the school district's school building maintenance allocation.

The state department of education shall transmit a summary of such reports to the legislature by not later than January 15 of the following year.

(7) If a school district that is participating in the relief provided for in subsection (4) of this section is forgiven the requirement to allocate the school district portion of the moneys for the two percent (2%) of building replacement value for building maintenance provided in subsection (1) of this section, then once the requirements of subsection (1) of this section are reinstated, the provisions of subsection (4) of this section shall recommence from the time the forgiveness took effect.

- (8) For the purposes of this section:
 - (a) "Annually" means each fiscal year.
 - (b) "School building" means buildings that are owned by the school district or leased by the school district through a lease-purchase agreement and are regularly occupied by students.
 - (c) "School district" means a school district or public charter school.

SECTION 2. That Section 39-8006A, Idaho Code, be, and the same is hereby amended to read as follows:

39-8006A. BEST PRACTICES MAINTENANCE PLAN FOR SCHOOL BUILDINGS. The administrator of the division of building safety and the state department of education shall consult and shall draft a best practices maintenance plan for school buildings which shall be supplied to the superintendent of each school district. Based on the best practices maintenance plan, each school

district shall develop a ten (10) year plan and submit it to the ~~state department of education~~ division of building safety for approval. ~~Annually thereafter, the school district shall submit a report to the state department of education~~ Such plan shall be submitted in all years ending in zero (0) or five (5), and shall include information detailing the work completed pursuant to the previous maintenance plan and any revisions to that plan.

Approved March 14, 2012.

CHAPTER 67
(H.B. No. 500)

AN ACT

RELATING TO THE OCCUPATIONAL THERAPY PRACTICE ACT; AMENDING SECTION 54-3711, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CONTINUING EDUCATION.

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

SECTION 1. That Section 54-3711, Idaho Code, be, and the same is hereby amended to read as follows:

54-3711. RENEWAL AND REINSTATEMENT OF LICENSE. (1) Any license issued under this chapter shall be subject to annual renewal and shall expire on the applicant's birthdate unless renewed before the applicant's birthdate in the manner prescribed by the rules of the board. The board shall require biennial proof of completing at least two (2) continuing education units ~~recommended by the association and approved by the board.~~ In addition, the board shall require ten (10) hours of professional development units as established in rule.

(2) The board may reinstate a license canceled for failure to renew upon compliance with requirements of the board for renewal of licenses.

(3) Upon application, the board shall grant inactive status to a licensee who (a) does not practice as an occupational therapist or an occupational therapy assistant, or (b) maintains any continuing competency requirements established by the board.

(4) An individual desiring reinstatement to full active licensure to practice as an occupational therapist or occupational therapy assistant shall submit a completed written application to the board according to procedures and requirements as promulgated by rule.

Approved March 14, 2012.

CHAPTER 68
(H.B. No. 501)

AN ACT

RELATING TO COUNSELORS AND THERAPISTS; AMENDING SECTION 54-3400, IDAHO CODE, TO REVISE LEGISLATIVE FINDINGS; AMENDING SECTION 54-3401, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE TERMS; AMENDING SECTION 54-3402, IDAHO CODE, TO REVISE PROHIBITED ACTIVITIES, TO REVISE EXEMPTIONS AND TO PROVIDE AN EXEMPTION; AMENDING SECTION 54-3403, IDAHO CODE, TO REMOVE ARCHAIC PROVISIONS, TO REVISE BOARD COMPOSITION REQUIREMENTS, TO REVISE BOARD MEETING PROVISIONS AND TO REMOVE BOARD SECRETARY PROVISIONS; AMENDING SECTION 54-3404, IDAHO CODE, TO REVISE BOARD POWERS; AMENDING CHAPTER 34, TITLE 54, IDAHO CODE, BY THE ADDI-

TION OF A NEW SECTION 54-3405A, IDAHO CODE, TO PROVIDE QUALIFICATION REQUIREMENTS FOR LICENSED CLINICAL PROFESSIONAL COUNSELORS; AMENDING SECTION 54-3405C, IDAHO CODE, TO REVISE QUALIFICATION REQUIREMENT PROVISIONS FOR MARRIAGE AND FAMILY THERAPISTS; AMENDING SECTION 54-3406, IDAHO CODE, TO PROVIDE FOR ENDORSEMENT OF CERTAIN LICENSEES LICENSED IN ANOTHER STATE, TERRITORY OR FOREIGN COUNTRY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-3407, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DISCIPLINE; AMENDING SECTION 54-3408, IDAHO CODE, TO REVISE PROVISIONS RELATING TO UNLAWFUL ACTS; AMENDING SECTION 54-3410, IDAHO CODE, TO REVISE VERBIAGE; AMENDING SECTION 54-3410A, IDAHO CODE, TO PROVIDE FOR INFORMED CONSENT, TO REVISE PROVISIONS RELATING TO INFORMATION DISCLOSURE AND TO PROVIDE FOR DOCUMENTED RECORDS OF DISCLOSURE; AMENDING SECTION 54-3412, IDAHO CODE, TO REMOVE INCONSISTENT VERBIAGE; AND AMENDING SECTION 54-3414, IDAHO CODE, TO REVISE SPECIFIED POWERS AND DUTIES OF THE BUREAU OF OCCUPATIONAL LICENSES RELATING TO COUNSELORS AND THERAPISTS.

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

SECTION 1. That Section 54-3400, Idaho Code, be, and the same is hereby amended to read as follows:

54-3400. LEGISLATIVE FINDINGS. The practice of counseling and marriage and family therapy in the state of Idaho is hereby declared to affect the public health, safety and welfare, and to be subject to regulation and control in the public interest to protect the public from the unprofessional, improper, unauthorized and unqualified practice of counseling or marriage and family therapy, and from unprofessional conduct by persons licensed to practice counseling or marriage and family therapy. This chapter should be construed liberally to carry out these objectives and purposes.

SECTION 2. That Section 54-3401, Idaho Code, be, and the same is hereby amended to read as follows:

54-3401. DEFINITIONS. As used in this chapter:

(1) "Board" means the Idaho state licensing board of professional counselors and marriage and family therapists.

(2) "Bureau chief" means the chief of the bureau of occupational licenses of the state of Idaho.

(3) "Department" means the department of self-governing agencies of the state of Idaho.

(4) "Licensed associate marriage and family therapist" means any person licensed under this chapter as an associate marriage and family therapist to practice marriage and family therapy under supervision as set forth in this chapter.

(5) "Licensed clinical professional counselor" means any person licensed under this chapter as a licensed clinical professional counselor to practice clinical professional counseling as set forth in this chapter.

(6) "Licensed marriage and family therapist" means any person licensed under this chapter to practice marriage and family therapy as defined in this chapter.

(67) "Licensed professional counselor" means any person licensed under this chapter to practice professional counseling as defined in this chapter.

(78) "Marriage and family therapy" means the evaluation and treatment of mental and emotional disorders, whether cognitive, affective or behavioral, within the context of marriage and family systems. Marriage and family therapy includes the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, couples and families for the purpose of treating nervous and mental disorders including, but not limited to, addictive disorders.

(89) "Practice of marriage and family therapy" means the rendering of professional marriage and family therapy services to individuals, couples and families, singly or in groups, whether such services are offered directly to the general public or through organizations, either public or private. A licensed associate marriage and family therapist shall only practice marriage and family therapy under supervision as established in this chapter and rules of the board. The practice of marriage and family therapy is restricted to marriage and family therapists competent in the area of practice, and in the use of such methods, techniques or modalities.

(910) "Practice of professional counseling" means the application of mental health, psychological, and human development principles in order to facilitate human development and adjustment throughout the life span; prevent, assess, and treat mental, emotional or behavioral disorders and associated distresses which interfere with mental health; conduct assessments for the purpose of establishing treatment goals and objectives; and plan, implement and evaluate treatment plans using counseling treatment interventions. "Counseling treatment interventions" The practice of professional counseling also means the application of cognitive, affective, behavioral, and systemic counseling strategies, which across the continuum of care. It includes principles of development, wellness and pathology that reflect a pluralistic contemporary society. Such interventions are specifically implemented in the context of a professional counseling relationship setting.

The practice of professional counseling includes, but is not limited to:

- (a) Individual, group, ~~marriage and~~ couples, family counseling and therapy;
- (b) Assessment;
- (c) Crisis intervention;
- (d) Treatment of persons with mental and emotional disorders including, but not limited to, addictive disorders;
- (e) Guidance and consulting to facilitate normal growth and development, including educational and career development;
- (f) Utilization of functional assessment and counseling for persons requesting assistance in adjustment to a disability;
- (g) Consulting;
- (h) Research; and
- (i) Referral.

The use of specific methods, techniques, or modalities within the practice of professional counseling is restricted to professional counselors appropriately trained in the use of such methods, techniques or modalities.

(11) "Supervised experience" and "experience under supervision" means a face-to-face process by which an approved supervisor facilitates the professional growth of a supervisee and monitors the supervisee's clinical performance. A supervisor provides professional direction to help the supervisee attain knowledge, improve case conceptualization and process skills, address personal issues as it pertains to clinical work, and strengthen professional development, ethics and boundary-setting as the supervisee provides clinical services to clients. A supervisor monitors the supervisee's clinical performance through direct and indirect observation of the services delivered by the supervisee, such as audio or video recordings, live supervision and other methods of observation of services.

SECTION 3. That Section 54-3402, Idaho Code, be, and the same is hereby amended to read as follows:

54-3402. LICENSE REQUIRED -- EXEMPTIONS. It shall be unlawful for any person to engage in any of the following acts:

(1) To practice professional counseling or marriage and family therapy for compensation without first having complied with the provisions of this chapter and without a valid license as required by this chapter.

(2) To represent himself/herself to be a licensed professional counselor or licensed clinical professional counselor or licensed marriage and family therapist or licensed associate marriage and family therapist unless he/she shall first obtain a license pursuant to this chapter.

(3) To make use of any title, words, letters or abbreviations which may reasonably be confused with a designation provided by this chapter.

(4) To materially refuse to furnish the board information or records required or requested pursuant to this chapter or pursuant to an investigation commenced pursuant to this chapter.

Nothing in this chapter shall be construed to apply to the activities and services of licensed or credentialed members of other professions, such as physicians, psychologists, registered nurses, social workers, drug and alcohol counselors, or attorneys performing duties consistent with the laws of this state, their training, and any code of ethics of their professions, provided they do not represent themselves by any title or practice description in the manner prescribed in section 54-3401, Idaho Code.

Nothing in this chapter shall be construed to apply to the activities, services and use of an official title on the part of a person certified by the state to render counseling or marriage and family therapy or counseling-related services, provided such persons are performing these activities within the scope of their employment, including school and vocational counselors.

Nothing in this chapter shall be construed to apply to the activities and services of a student or trainee pursuing a course of study in counseling or in marriage and family therapy in a regionally accredited institution of higher education or training institution, if these activities are performed under supervision and constitute a part of the supervised course of study, or of an intern in counseling acting under the direct supervision of a licensed professional counselor ~~in private practice~~ as established and limited by rules of the board, or of an intern in marriage and family therapy acting under the direct supervision as established and limited by rules of the board provided, that such person be designated, for example, a "counselor intern" or "marriage and family therapy intern."

Nothing in this chapter shall be construed to apply to the activities and services of a person obtaining their postgraduate marriage and family therapy clinical experience, provided these activities are provided under supervision, and provided they have registered according to procedures to be established by the board.

Nothing in this chapter shall be construed to apply to a nonresident whose counseling or marriage and family therapy activities and services are rendered not more than ten (10) days during any calendar year, provided that such a person is duly authorized to perform such activities and services under the laws of the state or country of that person's residence.

Nothing in this chapter shall be construed to apply to the activities and services of any religious denomination or sect or faith-based counseling of any kind.

Nothing in this chapter shall be construed to apply to the activities and descriptions of persons offering volunteer or professional services for public and private nonprofit organizations or agencies for which the services are rendered.

Nothing in this chapter shall be construed to apply to a person authorized to practice counseling or marriage and family therapy in another state or country rendering care in a time of disaster.

SECTION 4. That Section 54-3403, Idaho Code, be, and the same is hereby amended to read as follows:

54-3403. BOARD -- ORGANIZATION AND MEETINGS. There is hereby created in the department of self-governing agencies an Idaho state licensing board of professional counselors and marriage and family therapists as follows:

(1) The board shall consist of six (6) members, residents of the state of Idaho, who shall be appointed by the governor. In making appointments, the governor shall give consideration to recommendations submitted by the Idaho counseling association in consultation with other state counselor organizations, and the Idaho association for marriage and family therapy in consultation with other state marriage and family therapy organizations. If recommendations are not made within sixty (60) days of notification and request, the governor may make appointments of any qualified individual.

(2) ~~Beginning July 1, 1982, i~~Initial appointments to the board shall be for the following terms: one (1) member for a term ending in one (1) year; one (1) member for a term ending in two (2) years; one (1) member for a term ending in three (3) years; and one (1) member for a term ending in four (4) years. Upon the effective date of this act, the governor shall also initially appoint to the board one (1) person eligible for licensure as a marriage and family therapist for a term of four (4) years, and one (1) person eligible for licensure as both a professional counselor and a marriage and family therapist for a term of four (4) years.

(3) When the ~~initial~~ term of each member ends, the governor shall appoint the successor for a term of four (4) years from qualified candidates. Any vacancy occurring on the board shall be filled by the governor by appointment for the unexpired term. The governor may remove any board member for misconduct, incompetency, or neglect of duty after giving the board member written notice of the charges and an opportunity to be heard thereon.

(4) At all times, the board shall have two (2) members who are licensed as clinical professional counselors or professional counselors and who are engaged primarily in rendering counseling service; one (1) member who is engaged or has been engaged primarily in teaching, training or research in higher education in counseling or marriage and family therapy; one (1) member who is licensed or is eligible for licensure as both a professional counselor and a marriage and family therapist and who is engaged primarily in rendering marriage and family therapy or marriage and family counseling; one (1) member who is licensed as a marriage and family therapist and who is engaged primarily in rendering marriage and family therapy; and one (1) member from the general public. Except for the initial appointment, all members of the board except the member from the general public shall be licensed under this chapter.

~~(5) The first appointees, other than the member from the general public, must meet the qualifications for licensure and shall become licensed under the provisions of this act immediately upon their appointment as members of the board.~~

~~(6)~~ No board member shall serve more than two (2) full consecutive terms.

~~(7)~~ The members of the board shall be compensated as provided in section 59-509(m), Idaho Code.

~~(8)~~ The board shall ~~within sixty (60) days after the effective date of this chapter,~~ and annually thereafter hold a meeting and elect a chairman, and vice chairman and secretary from among its members. The board shall meet at such other times as deemed necessary and advisable by the chairman, or by a majority of its members, or by the governor. Notice of all meetings shall be

given in the manner prescribed by law. A majority of the board shall constitute a quorum at any meeting or hearing.

~~(9) The secretary of the board shall take and maintain the minutes of the board proceedings.~~

SECTION 5. That Section 54-3404, Idaho Code, be, and the same is hereby amended to read as follows:

54-3404. IDAHO STATE LICENSING BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS -- POWERS. The board shall have the following powers:

(1) To regulate the practice of professional counselors, clinical professional counselors, associate marriage and family therapists and marriage and family therapists in the state of Idaho.

(2) To pass upon the qualifications and fitness of applicants for licenses and to adopt rules requiring annual continuing education as a condition for the renewal of licenses issued under this chapter.

(3) To adopt and from time to time revise such rules as may be necessary to carry into effect the provisions of this chapter. Such rules shall include, but not be limited to, a code of ethics for professional counselors and a code of ethics for marriage and family therapists in the state, which shall be adopted in compliance with chapter 52, title 67, Idaho Code.

(4) To review the practice of professional counselors, clinical professional counselors, associate marriage and family therapists and marriage and family therapists licensed under this chapter and charged with a violation of the provisions of this chapter. This review may include the notes of the license holder and other materials related to the practice. The review will remain subject to disclosure according to chapter 3, title 9, Idaho Code, unless the written consent of the client is received by the board.

(5) To establish a peer review system whereby each license holder's practice may be reviewed to ensure continuing practice in an appropriate and ethical manner.

(6) To examine for, deny, approve, issue, revoke, suspend and renew the licenses of applicants pursuant to this chapter, and to conduct hearings in connection therewith.

(7) To conduct hearings to suspend or revoke licenses for violations of the law and rules adopted pursuant to this chapter and cause the prosecution and enjoinder of all such violations.

(8) In any proceeding before the board authorized by this chapter, the board or its designee may administer oaths or affirmations to witnesses appearing before it.

(9) To authorize, by written agreement, the chief of the bureau of occupational licenses as agent to act in its interest.

(10) To provide, by rule, licensed professional counselor, licensed clinical professional counselor, licensed associate marriage and family therapist and licensed marriage and family therapist specialty standards.

SECTION 6. That Chapter 34, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-3405A, Idaho Code, and to read as follows:

54-3405A. QUALIFICATIONS FOR LICENSURE. Licensure as a "licensed clinical professional counselor" shall be restricted to persons who have successfully completed each of the following requirements:

(1) Hold a valid licensed professional counselor license in good standing;

(2) Document two thousand (2,000) hours of direct client contact experience under supervision in no less than a two (2) year period as set forth in this chapter and the rules of the board.

(3) Successful completion of a written examination as approved by the board and defined in rules of the board.

SECTION 7. That Section 54-3405C, Idaho Code, be, and the same is hereby amended to read as follows:

54-3405C. QUALIFICATIONS FOR LICENSURE. Licensure as a "marriage and family therapist" shall be restricted to persons who have successfully completed each of the following requirements:

(1) A graduate degree which consists of at least sixty (60) semester hours or ninety (90) quarter credits in marriage and family therapy from a program accredited by the commission on accreditation for marriage and family therapy education, or a marriage and family counseling or therapy program which is accredited by the council for accreditation of counseling and related educational programs, or a graduate degree from a regionally accredited educational institution and an equivalent course of study as approved by the board. The course of study for any graduate degree shall include a minimum of thirty-nine (39) semester credits in the following areas:

(a) Marriage and family studies -- nine (9) semester credit minimum. Studies in this area shall include:

(i) Theoretical foundations, history, philosophy, etiology and contemporary conceptual directions of marriage and family therapy or marriage and family counseling;

(ii) Family systems theories and other relevant theories and their application in working with a wide variety of family structures, including families in transition, nontraditional families and blended families, and a diverse range of presenting issues; and

(iii) Preventive approaches, including premarital counseling, parent skill training and relationship enhancement, for working with couples, families, individuals, subsystems and other systems.

(b) Marriage and family therapy -- nine (9) semester credit minimum. Studies in this area shall include:

(i) The practice of marriage and family therapy related to theory, and a comprehensive survey and substantive understanding of the major models of marriage and family therapy or marriage and family counseling; and

(ii) Interviewing and assessment skills for working with couples, families, individuals, subsystems and other systems, and skills in the appropriate implementation of systematic interventions across a variety of presenting clinical issues including, but not limited to, socioeconomic disadvantage, abuse and addiction.

(c) Human development -- nine (9) semester credit minimum. Studies in this area shall include:

(i) Individual development and transitions across the life span;

(ii) Family, marital and couple life cycle development and family relationships, family of origin and intergenerational influences, cultural influences, ethnicity, race, socioeconomic status, religious beliefs, gender, sexual orientation, social and equity issues and disability;

(iii) Human sexual development, function and dysfunction, impacts on individuals, couples and families, and strategies for intervention and resolution; and

(iv) Issues of violence, abuse and substance use in a relational context, and strategies for intervention and resolution.

(d) Psychological and mental health competency -- six (6) semester credit minimum. Studies in this area shall include:

- (i) Psychopathology, including etiology, assessment, evaluation and treatment of mental disorders, use of the current diagnostic and statistical manual of mental disorders, differential diagnosis and multi-axial diagnosis;
 - (ii) Standard mental health diagnostic assessment methods and instruments, including standardized tests; and
 - (iii) Psychotropic medications and the role of referral to and cooperation with other mental health practitioners in treatment planning, and case management skills for working with individuals, couples and families.
- (e) Professional ethics and identity -- three (3) semester credit minimum. Studies in this area shall include:
- (i) Professional identity, including professional socialization, professional organizations, training standards, credentialing bodies, licensure, certification, practice settings and collaboration with other disciplines;
 - (ii) Ethical and legal issues related to the practice of marriage and family therapy, legal responsibilities of marriage and family therapy and marriage and family counseling practice and research, business aspects, reimbursement, recordkeeping, family law, confidentiality issues and the relevant codes of ethics, including the code of ethics specified by the board; and
 - (iii) The interface between therapist responsibility and the professional, social and political context of treatment.
- (f) Research -- three (3) semester credit minimum. Studies in this area shall include:
- (i) Research in marriage and family therapy or marriage and family counseling and its application to working with couples and families; and
 - (ii) Research methodology, quantitative and qualitative methods, statistics, data analysis, ethics and legal considerations of conducting research, and evaluation of research.
- (2) Completion of a one (1) year practicum of supervised marriage and family therapy experience, consisting of a minimum of three hundred (300) direct client contact hours, of which one hundred fifty (150) hours shall be with couples or families, as part of the graduate program.
- (3) Supervised experience in marriage and family therapy of three thousand (3,000) hours, acceptable to the board as defined by rule. A minimum of two hundred (200) hours of supervision of the postgraduate experience. Supervision may be provided by a clinical member of the American association for marriage and family therapy, by a licensed marriage and family therapist, or another qualified licensed professional as determined by the board and defined in rule who has a minimum of five (5) years experience providing marriage and family therapy, including: a licensed clinical professional counselor, ~~private practice~~; licensed psychologist; ~~certified licensed clinical social worker, private and independent practice~~; or licensed psychiatrist.
- (4) Successful completion of a written examination as approved by the board and defined by rule.
- (5) A license will not be allowed an individual whose license, certification or registration has been revoked or suspended in this or any other state and in this or any other related field. Such an individual may not be licensed under this chapter unless the period of revocation or suspension has been completed and the board has conducted a competency review and determined that an acceptable degree of rehabilitation has been accomplished.

SECTION 8. That Section 54-3406, Idaho Code, be, and the same is hereby amended to read as follows:

54-3406. ENDORSEMENT. Upon payment of the fee enumerated in this chapter, the board may grant a license to any person who, at the time of application, is licensed or certified as a licensed professional counselor, licensed clinical professional counselor, licensed associate marriage and family therapist or licensed marriage and family therapist by an agency located in another state state, territory or foreign country and who meets the qualifications established by board rule.

SECTION 9. That Section 54-3407, Idaho Code, be, and the same is hereby amended to read as follows:

54-3407. DISCIPLINARY PROCEEDINGS. Subject to the provisions of chapter 52, title 67, Idaho Code, the board may refuse to issue, refuse to renew, revoke, ~~or~~ suspend or otherwise sanction a licensee upon the following grounds:

- (1) Fraud or deception in procuring or renewing the license;
- (2) Conviction of a felony by a court of competent jurisdiction;
- (3) Gross incompetency;
- (4) Fraud or deceit in the performance of official duties;
- (5) For violation of any of the provisions of this chapter or any of the rules promulgated by the board under the authority of this chapter;
- (6) Failure to comply with a board order;
- (7) Having had a license revoked, suspended or otherwise disciplined by the proper authorities of another state, territory or country.

The board may reinstate any revoked or suspended license upon such terms as it may impose.

SECTION 10. That Section 54-3408, Idaho Code, be, and the same is hereby amended to read as follows:

54-3408. CERTAIN ACTS PROHIBITED. The following acts shall be unlawful and punishable as a misdemeanor:

- (1) The violation of any of the provisions of this chapter and any rules promulgated pursuant thereto;
- (2) A person representing himself to be a licensed clinical professional counselor or licensed professional counselor or licensed associate marriage and family therapist or licensed marriage and family therapist without having first complied with the provisions of this chapter;
- (3) A person who shall practice or attempt to offer to practice professional counseling or marriage and family therapy, as defined in this chapter, without having at the time of so doing, a valid, unexpired, unrevoked and unsuspended license issued under this chapter or the laws of Idaho or any other state governing mental health professionals.

SECTION 11. That Section 54-3410, Idaho Code, be, and the same is hereby amended to read as follows:

54-3410. CONFIDENTIAL COMMUNICATION. Confidentiality of communication between any person licensed under this chapter and client shall be privileged from disclosure as provided in section 9-203, Idaho Code, with the exception of the board ~~of~~ review as provided in section 54-3404, Idaho Code.

SECTION 12. That Section 54-3410A, Idaho Code, be, and the same is hereby amended to read as follows:

54-3410A. INFORMED CONSENT AND INFORMATION DISCLOSURE TO CLIENTS. Informed consent involves a licensee's reasonable disclosure of information to clients and the discussion of such information with clients so that they are agreeing to treatment with knowledge of the material facts necessary to make the decision. Persons licensed under this chapter shall provide clients at the beginning of treatment with accurate disclosure information concerning their practice, including the right of clients to refuse treatment, the responsibility of clients for choosing the provider and treatment modality, and the extent of confidentiality. The disclosure information provided by the counselor or the marriage and family therapist, the receipt of which shall be acknowledged in writing by the counselor and client, or the marriage and family therapist and client, shall include any relevant education and training, the therapeutic orientation of the practice, modalities or treatment utilized, and all financial requirements. The disclosure information shall include a statement that licensure of an individual under this chapter does not imply endorsement by the licensing board nor effectiveness of treatment to each client at the beginning and at other appropriate times within the context of the counseling or therapy an accurate and informative description that allows the client to make an informed decision about the client's care. The specific minimum requirements of a documented record of the disclosure shall be defined in the rules of the board.

SECTION 13. That Section 54-3412, Idaho Code, be, and the same is hereby amended to read as follows:

54-3412. DISPOSITION OF RECEIPTS -- EXPENSES -- REFUND. All fees received under the provisions of this chapter shall be deposited in the state treasury to the credit of the occupational license account in the dedicated fund and all costs and expenses incurred by the board under the provisions of this chapter shall be a charge against and paid from the account for such purposes, and the funds collected hereunder shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding. In no instance will the occupational license account be obligated to pay any claims which in aggregate with claims already paid exceed the income to the occupational license account which has been derived by the application of this chapter.

The money paid into the occupational license account is continuously appropriated to the board for expenditure in the manner prescribed herein to defray the expenses of the board and in carrying out and enforcing the provisions of this chapter.

SECTION 14. That Section 54-3414, Idaho Code, be, and the same is hereby amended to read as follows:

54-3414. POWERS AND DUTIES OF BUREAU OF OCCUPATIONAL LICENSES. The bureau of occupational licenses shall have the following powers and duties:

(1) To accept applications for and issue licenses to professional and clinical professional counselors, associate marriage and family therapists, and marriage and family therapists pursuant to requirements of this chapter.

(2) To maintain in a registry appropriate for that purpose a public record of all applications for licenses, the action of the department thereon, of all licenses issued and of all licenses revoked or forfeited with the reasons for such revocation or forfeiture and of all renewals.

(3) To forward complaints against a licensed professional counselor, a licensed clinical professional counselor, a licensed associate marriage and family therapist or a licensed marriage and family therapist to the state licensing board for review and investigation.

(4) To assist in the investigation and prosecution of complaints filed against a licensed professional counselor, a licensed clinical professional counselor, or a licensed marriage and family therapist or a licensed associate marriage and family therapist under section 54-3408, Idaho Code.

(5) At the discretion of the chief of the bureau and upon apparent failure or refusal of the state licensing board to investigate or prosecute a complaint against a licensed professional counselor, a licensed clinical professional counselor, or a licensed marriage and family therapist or a licensed associate marriage and family therapist, to investigate the complaint and forward the report of investigation to the state licensing board and upon apparent failure or refusal of the state licensing board to take further action, to file an action in the district court under section 54-3408, Idaho Code, against a licensed professional counselor, a licensed clinical professional counselor, or a licensed marriage and family therapist or a licensed associate marriage and family therapist violating the terms of this chapter.

Approved March 14, 2012.

CHAPTER 69
(H.B. No. 521)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-118A, IDAHO CODE, TO REMOVE CERTAIN LANGUAGE RELATING TO A COMPLETE AND CATALOGED LIBRARY OF CURRICULAR MATERIALS.

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

SECTION 1. That Section 33-118A, Idaho Code, be, and the same is hereby amended to read as follows:

33-118A. CURRICULAR MATERIALS -- ADOPTION PROCEDURES. All curricular materials adoption committees appointed by the state board of education shall contain at least two (2) persons who are not public educators or school trustees. All meetings of curricular materials adoption committees shall be open to the public. Any member of the public may attend such meetings and file written or make oral objections to any curricular materials under consideration. ~~A complete and cataloged library of all curricular materials adopted in the immediately preceding three (3) years and used in Idaho public schools, and all electronically available curricular materials used in Idaho public schools are to be maintained at the state department of education at all times and open to the public.~~

"Curricular materials" is defined as textbook and instructional media including software, audio/visual media and internet resources.

Approved March 14, 2012.

CHAPTER 70
(H.B. No. 534)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1004I, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN LEADERSHIP AWARDS; AND PROVIDING A CONTINENT SUNSET DATE.

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

SECTION 1. That Section 33-1004I, Idaho Code, be, and the same is hereby amended 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 forty-four (544) 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 seven hundred fifty-three (753) 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 seven hundred seventy (770) 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 previous 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;
- (xiii) Student attendance rate; and
- (xiv) Various other criteria determined by local districts, subject to approval by the state department of education.

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;
- (xvi) Earning national board certification; and
- (xvii) Various other criteria determined by local districts, subject to approval by the state department of education.

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 2. If Chapter 97, Laws of 2011, is rejected through voter referendum in November 2012, the provisions of this act shall be null, void and of no further force or effect.

Approved March 14, 2012.

CHAPTER 71
(H.B. No. 460)

AN ACT

RELATING TO OIL AND GAS WELLS; AMENDING SECTION 47-320, IDAHO CODE, TO REQUIRE CERTAIN NOTICE AND PERMIT RELATING TO TREATING WELLS FOR OIL OR GAS AND TO REVISE FEE PROVISIONS RELATING TO PERMITS FOR DRILLING AND TREATING WELLS FOR OIL OR GAS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 47-320, Idaho Code, be, and the same is hereby amended to read as follows:

47-320. PERMIT TO DRILL OR TREAT A WELL. (1) It shall be unlawful to commence operations for the drilling or treating of a well for oil or gas without first giving notice to the commission of intention to drill or treat and without first obtaining a permit from the commission under such rules and regulations as may be reasonably prescribed by the commission and by paying to the commission a filing and service fee of one hundred dollars (\$100) for such permit, which shall be remitted to the state treasurer for deposit in the oil and gas conservation fund and shall be used exclusively to pay the costs and expenses incurred in connection with the administration and enforcement of this act. No permit may be issued by the commission until the commission shall notify the director of the department of water resources and said director shall have fifteen (15) days from the date of receipt of such notification from the commission to recommend conditions he believes necessary to protect fresh water supplies.

Upon issuance of any permit, a copy thereof, including any limitations, conditions, controls, rules or regulations attached thereto for the protection of fresh water supplies as required in section 47-319, Idaho Code, shall be forwarded to the director of the department of water resources.

(2) The filing and service fee as provided in subsection (1) of this section shall be temporarily raised to a maximum of up to two thousand five hundred dollars (\$2,500) beginning on the effective date of this act. On and after July 1, 2017, the filing and service fee shall be reduced to one hundred dollars (\$100).

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

Approved March 20, 2012.

CHAPTER 72
(H.B. No. 462)

AN ACT

RELATING TO PUBLIC UTILITY REGULATION; AMENDING SECTION 61-114, IDAHO CODE, TO REVISE THE DEFINITION OF "PIPELINE" AND TO DEFINE "GATHERING LINES"; AMENDING SECTION 61-129, IDAHO CODE, TO PROVIDE THAT THE TERM "PUBLIC UTILITY" SHALL COVER CASES RELATING TO CERTAIN PIPELINES AND TO PROVIDE THAT SUCH PIPELINES SHALL BE SUBJECT TO THE SAFETY SUPERVISION AND REGULATION OF THE PUBLIC UTILITIES COMMISSION; AMENDING SECTION 61-1004, IDAHO CODE, TO PROVIDE AN EXCEPTION TO CERTAIN FEE PROVISIONS FOR PIPELINE CORPORATIONS AND TO PROVIDE THAT FEES FOR PIPELINE CORPORATIONS SHALL BE CALCULATED TO RECOVER THE COMMISSION'S TIME AND EXPENSE DEVOTED TO THE SAFETY SUPERVISION AND REGULATION OF EACH PIPELINE CORPORATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 61-114, Idaho Code, be, and the same is hereby amended to read as follows:

61-114. PIPELINE. (1) The term "pipeline" when used in this act includes all real estate, gathering lines, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate

the transmission, storage, distribution or delivery of natural gas or manufactured gas, crude oil or other fluid substances except water through pipelines.

(2) "Gathering lines" means fixtures, valves, pipes and other property used to transport, deliver or distribute natural gas, manufactured gas or crude oil from a wellhead to a treatment facility or a point of interconnection with another gathering line, a transmission line or main line.

SECTION 2. That Section 61-129, Idaho Code, be, and the same is hereby amended to read as follows:

61-129. PUBLIC UTILITY. The term "public utility" when used in this act includes every common carrier, pipeline corporation, gas corporation, electrical corporation, telephone corporation and water corporation, as those terms are defined in this chapter and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this act. ~~provided, that~~ ~~the~~ term "public utility" as used in this act shall cover cases both:

(1) Where the service is performed and the commodity delivered directly to the public or some portion thereof, and where the service is performed or the commodity delivered to any corporation or corporations, or any person or persons, who in turn, either directly or indirectly or mediately or immediately, performs the services or delivers such commodity to or for the public or some portion thereof; and

(2) Where a pipeline corporation delivers the commodity to any corporation, person, their lessees, receivers or trustees regardless of whether it offers the pipeline service or commodity to the public or some portion thereof. Such pipeline shall be subject to the safety supervision and regulation of the commission.

SECTION 3. That Section 61-1004, Idaho Code, be, and the same is hereby amended to read as follows:

61-1004. DUTIES OF COMMISSION -- FEES -- DETERMINATION -- MAXIMUM AND MINIMUM FEES. On or before April 15th of each year the commission shall determine the proportionate assessment that all railroad corporations, and all other public utilities subject to the jurisdiction of the commission, shall bear to the amount which will be required to defray the expense of the commission for supervision and regulation of such railroad corporations and other public utilities during the ensuing fiscal year; such determination shall be based upon a consideration of the time and expense devoted to the supervision and regulation of each such class of railroad corporations and other public utilities during the preceding calendar year, including salaries and wages of the commissioners and employees and all other necessary and lawful expenditures of the commission. Thereupon the commission shall apportion the assessment thus determined to be required of all railroad corporations and all other public utilities, to each such class thereof, respectively, in proportion to their respective gross operating revenues derived from intrastate utility business in Idaho for the preceding calendar year, except that the maximum fee payable shall not exceed:

(1) In the case of railroad corporations, one percent (1%) of the gross operating revenues derived from the intrastate utility business of each railroad corporation; and

(2) In the case of all other public utilities except pipeline corporations, three-tenths (3/10) of one percent (1%) of the gross operating revenues derived from the intrastate utility business of each such public utility.

(3) In the case of pipeline corporations, the fee payable shall be calculated to recover the commission's time and expense devoted to the safety supervision and regulation of each pipeline corporation.

(4) In no case shall the fee be less than fifty dollars (\$50.00).

(5) The commission shall make such assessment of the fees so determined by orders duly made and entered on its minutes.

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

Approved March 20, 2012.

CHAPTER 73
(H.B. No. 463)

AN ACT

RELATING TO OIL AND GAS; AMENDING SECTION 47-318, IDAHO CODE, TO REVISE DEFINITIONS, TO DEFINE TERMS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 47-319, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE AUTHORITY OF THE OIL AND GAS CONSERVATION COMMISSION, TO REVISE PROVISIONS RELATING TO THE CONFIDENTIALITY OF CERTAIN EXPLORATORY AND WILDCAT WELLS, TO PROVIDE FOR THE USE OF WELL LOGS AND DIRECTIONAL SURVEYS IN ACTIONS TO ENFORCE SPECIFIED PROVISIONS, TO CLARIFY THAT CERTAIN SPECIFIC AUTHORITY OF THE COMMISSION SHALL NOT LIMIT ITS GENERAL AUTHORITY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-325, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE ISSUANCE OF ATTACHMENTS BY DISTRICT COURTS, TO PROVIDE FOR THE ASSESSMENT OF CIVIL PENALTIES BY THE COMMISSION, TO PROVIDE THAT THE COMMISSION MAY BRING CIVIL ACTIONS FOR CERTAIN VIOLATIONS AND THREATS TO VIOLATE, TO PROVIDE FOR CERTAIN DAMAGES, TO REMOVE PROVISIONS RELATING TO THE SUBSTITUTION OF THE COMMISSION FOR PERSONS WHO HAVE BROUGHT SUITS, TO PROVIDE THAT CERTAIN CONDUCT SHALL CONSTITUTE A MISDEMEANOR, TO PROVIDE FOR PENALTIES, TO PROVIDE FOR THE DISCRETION OF THE COMMISSION RELATING TO MINOR VIOLATIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 47-326, IDAHO CODE, TO REMOVE PROVISIONS RELATING TO ACTIONS AGAINST THE COMMISSION AND APPEALS, TO REVISE PENALTY PROVISIONS RELATING TO THE FALSIFICATION OF CERTAIN RECORDS AND TO CLARIFY APPLICABILITY RELATING TO LIMITATIONS ASSOCIATED WITH THE COMMENCEMENT OF CERTAIN ACTIONS; AMENDING SECTION 47-328, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE CONSTRUCTION OF SPECIFIED LAW 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 47-318, Idaho Code, be, and the same is hereby amended to read as follows:

47-318. DEFINITIONS. Unless the context otherwise requires, the terms defined in this section shall have the following meaning when used in this act:

(a) ~~The word "Commission" shall mean~~ the oil and gas conservation commission.

(b) ~~"Waste" as applied to oil means and includes underground waste; inefficient, excessive or improper use or dissipation of reservoir energy, including gas energy and water drive; surface waste, open-pit storage, and waste incident to the production of oil in excess of the producer's~~

~~above-ground storage facilities and lease and contractual requirements, but excluding storage (other than open-pit storage) reasonably necessary for building up and maintaining crude stocks and products thereof for consumption, use and sale; the locating, drilling, equipping, operating, or producing of any well in a manner that causes, or tends to cause, reduction of the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations~~ "Condensate" means the liquid produced by the condensation of a vapor or gas either after it leaves the reservoir or while still in the reservoir.

(c) ~~"Waste" as applied to gas shall include the escape, blowing or releasing, directly or indirectly, into the open air of gas from wells productive of gas only, or gas in an excessive or unreasonable amount from wells producing oil or both oil and gas; and the production of gas in quantities or in such manner as will unreasonably reduce reservoir pressure or unreasonably diminish the quantity of oil or gas that might ultimately be produced; excepting gas that is reasonably necessary in the drilling, completing and testing of wells and in furnishing power for the production of wells~~ "Correlative rights" means the owners' or producers' just and equitable share in a pool.

(d) ~~"Person" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representatives of any kind, and includes any government or any political subdivision of any agency thereof. The masculine gender, in referring to a person, includes the feminine and the neuter genders~~ "Field" means the general area underlaid by one (1) or more pools.

(e) ~~"Oil" means crude petroleum oil and all other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods, but does not include liquid hydrocarbons that were originally in a gaseous phase in the reservoir~~ "Gas" means any petroleum hydrocarbon existing in the gaseous phase.

(f) ~~"Gas" means all natural gas and all other fluid hydrocarbons not hereinabove defined as oil, including condensate because it originally was in the gaseous phase in the reservoir~~ "Market value" means the price at the time of sale, in cash or on terms reasonably equivalent to cash, for which the oil or gas should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus from either party. The costs of marketing, transporting and processing oil and gas produced shall be borne entirely by the producer, and such cost shall not reduce the producer's tax directly or indirectly.

(g) ~~"Condensate" means liquid hydrocarbons that were originally in the gaseous phase in the reservoir~~ "Oil" or "crude oil" means petroleum oil and other hydrocarbons, regardless of gravity, that are produced at the well in liquid form by ordinary production methods and are not the result of gas condensation before or after it leaves the reservoir.

(h) ~~"Pool" means an underground reservoir containing a common accumulation of oil or gas or both; each zone of a structure that is completely separated from any other zone in the same structure is a pool~~ "Oil and gas" means oil or gas or both.

(i) ~~"Field" means the general area underlaid by one or more pools~~ "Owner" means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas that he produces therefrom, either for himself or for himself and others.

(j) ~~"Owner" means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas that he produces therefrom, either for himself or for himself and others~~ "Person" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary or other representatives of any kind, and includes any government or any political subdivision of any agency thereof.

The masculine gender, in referring to a person, includes the feminine and the neuter genders.

~~(k) "Producer" means the owner of a well or wells capable of producing oil or gas or both~~ "Pool" means an underground reservoir containing a common accumulation of oil or gas or both; each zone of a structure that is completely separated from any other zone in the same structure is a pool.

~~(l) "Just and equitable share of the production" means, as to each person, that part of the production from the pool that is substantially in the proportion that the amount of recoverable oil or gas or both in the developed area of his tract or tracts in the pool bears to the recoverable oil or gas or both in the total of the developed areas in the pool~~ "Producer" means the owner of a well or wells capable of producing oil or gas or both.

~~(m) "Developed area" means a spacing unit on which a well has been completed that is capable of producing oil or gas, or the acreage that is otherwise attributed to a well by the commission~~ "Reservoir" means a subsurface volume of porous and permeable rock in which oil or gas has accumulated.

~~(n) "Correlative rights" means the owners' or producers' just and equitable share in a pool~~ "Waste" as applied to gas shall include the escape, blowing or releasing, directly or indirectly, into the open air of gas from wells productive of gas only, or gas in an excessive or unreasonable amount from wells producing oil or both oil and gas; and the production of gas in quantities or in such manner as will unreasonably reduce reservoir pressure or unreasonably diminish the quantity of oil or gas that might ultimately be produced; excepting gas that is reasonably necessary in the drilling, completing and testing of wells and in furnishing power for the production of wells.

~~(o) "Oil and gas" means oil or gas or both~~ "Waste" as applied to oil means and includes underground waste; inefficient, excessive or improper use or dissipation of reservoir energy, including gas energy and water drive; surface waste, open-pit storage and waste incident to the production of oil in excess of the producer's above-ground storage facilities and lease and contractual requirements, but excluding storage (other than open-pit storage) reasonably necessary for building up and maintaining crude stocks and products thereof for consumption, use and sale; the locating, drilling, equipping, operating or producing of any well in a manner that causes, or tends to cause, reduction of the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations.

~~(p) The use of the plural includes the singular, and the use of the singular includes the plural.~~

SECTION 2. That Section 47-319, Idaho Code, be, and the same is hereby amended to read as follows:

47-319. LAND SUBJECT TO ACT -- AUTHORITY OF COMMISSION. (a) This act shall apply to all lands located in the state, however owned, including any lands owned or administered by any government or any agency or political subdivision thereof, over which the state under its police power, has jurisdiction.

(b) The commission is authorized and it is its duty to prevent waste of oil and gas and to protect correlative rights, and otherwise to administer and enforce this act. It has jurisdiction over all persons and property necessary for that purpose. In the event of a conflict, the duty to prevent waste is paramount.

(c) The commission is authorized to make such investigations as it deems proper to determine whether action by the commission in discharging its duties is necessary.

(d) Without limiting its general authority, the commission shall have the specific authority to require:

~~To require:~~

(1) ~~i~~Identification of ownership of oil or gas wells, producing leases, tanks, plants, structures, and facilities for the transportation or refining of oil and gas;

(2) ~~t~~The taking and preservation of samples and the making and filing with the commission of true and correct copies of well logs and directional surveys both in form and content as prescribed by the commission; provided, however, that logs of exploratory or wildcat wells marked confidential shall be subject to disclosure according to chapter 3, title 9, Idaho Code, and shall be kept confidential by the commission for a period of one (1) year from the date of filing the log with the commission. And provided that the commission may use any well logs and directional surveys in any action to enforce the provisions of this chapter or any order or rule adopted hereunder. And provided further, that after four (4) months from the effective date of this act, the commission may require the owner of a well theretofore drilled for oil or gas to file within four (4) months of such order a true and correct copy of the log or logs of such well;

(3) ~~t~~The drilling, casing, operation and plugging of wells in such manner as to prevent (a) the escape of oil or gas out of one (1) pool into another, (b) the detrimental intrusion of water into an oil or gas pool that is avoidable by efficient operations, (c) the pollution of fresh water supplies by oil, gas, or salt water, (d) blow-outs, cavings, seepages, and fires, and (e) waste as hereinabove defined;

(4) ~~t~~The taking of tests of oil or gas wells;

(5) ~~t~~The furnishing of a reasonable performance bond with good and sufficient surety, conditioned upon the performance of the duty to comply with the requirements of this law and the regulations of the commission with respect to the drilling, maintaining, operating and plugging of each well drilled for oil or gas;

(6) ~~t~~That the production from wells be separated into gaseous and liquid hydrocarbons, and that each be measured by means and upon standards that may be prescribed by the commission;

(7) ~~t~~That wells not be operated with inefficient gas-oil or water-oil ratios, and to fix these ratios, and to limit production from wells with inefficient gas-oil or water-oil ratios;

(8) ~~m~~Metering or other measuring of oil, gas, or product;

(9) ~~t~~That every person who produces oil or gas in the state keep and maintain for a period of five (5) years complete and accurate records of the quantities thereof, which records, or certified copies thereof, shall be available for examination by the commission or its agents at all reasonable times within said period, and that every such person file with the commission such reasonable reports as it may prescribe with respect to such oil or gas production;

(10) ~~t~~The filing of reports of plats with the commission that it may prescribe.

(e) Without limiting its general authority, the commission shall have the specific authority to regulate:

(1) ~~t~~The drilling and plugging of wells and all other operations for the production of oil or gas;

(2) ~~t~~The shooting and treatment of wells;

(3) ~~t~~The spacing or locating of wells;

(4) ~~e~~Operations to increase ultimate recovery, such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into a producing formation; and

(5) ~~t~~The disposal of salt water and oil-field wastes. To classify and reclassify pools as oil, gas, or condensate pools, or wells as oil, gas, or condensate wells. To make and enforce rules, regulations, and orders reasonably necessary to prevent waste, protect correlative rights, to

govern the practice and procedure before the commission, and otherwise to administer this act.

SECTION 3. That Section 47-325, Idaho Code, be, and the same is hereby amended to read as follows:

47-325. POWERS OF COMMISSION -- WITNESSES -- PENALTY. (a) The commission shall have the power to summon witnesses, to administer oaths, and to require the production of records, books, and documents for examination at any hearing or investigation conducted by it.

(b) In case of failure or refusal on the part of any person to comply with a subpoena issued by the commission, or in case of refusal of any witness to testify as to any matter regarding which he may be interrogated, any district court in the state, upon the application of the commission, may ~~in term time or vacation~~ issue an attachment for such person and compel him to comply with such subpoena, and to attend before the commission and produce such records, books, and documents for examination, and to give his testimony. Such court shall have the power to punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify therein.

(c) Any person who violates or fails to comply with any of the provisions of this chapter or any rules promulgated hereunder may be assessed a civil penalty by the commission or its duly authorized agent of not more than ten thousand dollars (\$10,000) for each violation and shall be liable for reasonable attorney's fees. Each day the violation continues shall constitute a separate and additional violation, punishable by separate and additional civil penalties in like amount or other civil penalties as determined by the commission.

(1) Assessment of a civil penalty may be made in conjunction with any other commission administrative action.

(2) No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to chapter 52, title 67, Idaho Code.

(3) If the commission is unable to collect such penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the commission, it may recover such amount by action in the appropriate district court.

(4) Any person against whom the commission has assessed a civil penalty under the provisions of this section may, within twenty-eight (28) days of the final action by the agency making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the commission to have occurred pursuant to chapter 52, title 67, Idaho Code.

(5) All civil penalties collected pursuant to this section shall be remitted to the oil and gas conservation fund.

(d) Whenever it shall appear that any person is violating or threatening to violate any provision of this act or any rule, regulation, or order made hereunder, the commission shall ~~may bring suit~~ a civil action in the name of the state against such person in the district court in the county of the residence of the defendant, or in the county of the residence of any defendant, if there be more than one (1) defendant, or in the county where the violation is alleged to have occurred, to restrain such person from continuing such violation or from carrying out the threat of violation. In such suit, the court may grant injunctions, prohibitory and mandatory, including temporary restraining orders and temporary injunctions. In such suit, the commission may seek damages to recover costs caused by such violation including, but not limited to, costs of well control, spill response and cleanup, restoration of fresh waters, well plugging and abandonment, and reclamation of surface disturbance.

(de) Nothing in this act, and no suit by or against the commission, and no violation charged or asserted against any person under any provisions of this act, or any rule, regulation or order issued hereunder, shall impair or abridge or delay any cause of action for damages which any person may have or assert against any person violating any provision of this act, or any rule, regulation, or order issued thereunder. Any person so damaged by the violation may sue for and recover such damages as he otherwise may be entitled to receive. In the event the commission shall fail to bring suit to enjoin any actual or threatened violation of this act, or of any rule, regulation or order made hereunder, then any person or party in interest adversely affected and who has, ten (10) days or more prior thereto, notified the commission in writing of such violation or threat thereof and has requested the commission to sue, may, to prevent any or further violation, bring suit for that purpose in the district court of any county in which the commission could have brought suit. ~~If, in such suit, the court holds that injunctive relief should be granted, then the commission shall be made a party and shall be substituted for the person who brought the suit, and the injunction shall be issued as if the commission had at all times been the complaining party.~~

(f) Any person who knowingly violates any provision of this chapter, or any of the rules promulgated hereunder for carrying out the provisions of this chapter, or who fails or refuses to comply with any requirements herein specified, or who interferes with the commission, its agents, designees or employees in the execution or on account of the execution of its or their duties under this chapter or rules promulgated hereunder, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five thousand dollars (\$5,000) or be imprisoned in a county jail for not more than twelve (12) months, or be subject to both such fine and imprisonment.

(g) Nothing in this chapter shall be construed as requiring the commission to report minor violations for prosecution when it believes that the public interest will be best served by suitable warnings or other administrative action.

SECTION 4. That Section 47-326, Idaho Code, be, and the same is hereby amended to read as follows:

~~47-326. ACTIONS AGAINST THE COMMISSION -- APPEALS -- FALSIFICATION OF RECORDS -- LIMITATION OF ACTIONS. (a) Any person adversely affected by any rule, regulation or order made or issued under this act, may within ninety (90) days after the entry thereof bring a civil suit or action against the commission in the district court of Ada county, or in the district court of the county in which the complaining person resides, or in the U.S. district court for Idaho (if it otherwise has jurisdiction), and not elsewhere, to test the validity of any provision of this act, or rule, regulation or order, or to secure an injunction or to obtain other appropriate relief, including all rights of appeal.~~

~~(b) An action or appeal involving any provision of this act, or a rule, regulation or order shall be determined as expeditiously as feasible. The trial court shall determine the issues on both questions of law and fact and shall affirm or set aside such rule, regulation or order, or remand the cause to the commission for further proceedings. Such court is hereby authorized to enjoin permanently the enforcement by the commission of this act, or any part thereof, or any act done or threatened thereunder, if the plaintiff shall show that as to him the act or conduct complained of is unreasonable, unjust, arbitrary or capricious, or violates any constitutional right of the plaintiff or if the plaintiff shows that the act complained of does not constitute or result in waste, or does not in a reasonable manner accomplish an end that is the subject matter of this act.~~

~~(c) Any person who, for the purpose of evading this act or any rule, regulation or order of the commission shall make or cause to be made any false~~

entry in any report, record, account, or memorandum required by this act, or by any such rule, regulation or order, or shall omit, or cause to be omitted, from any such report, record, account, or memorandum, full, true and correct entries as required by this act, or by any such rule, regulation or order, or shall remove from this state or destroy, mutilate, alter or falsify any such record, account, or memorandum, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than five thousand dollars (\$5,000) or imprisonment for a term not exceeding ~~six~~ twelve (612) months, or to both such fine and imprisonment.

(db) No suit, action or other proceeding based upon a violation of this act or any rule, regulation or order of the commission hereunder shall be commenced or maintained unless same shall have been commenced within one (1) year from date of the alleged violation. Provided however, the provisions of this subsection shall not apply to actions governed by the provisions of chapter 52, title 67, Idaho Code.

SECTION 5. That Section 47-328, Idaho Code, be, and the same is hereby amended to read as follows:

47-328. ACT NOT CONSTRUED TO RESTRICT PRODUCTION. It is not the intent or purpose of this law to require the proration or distribution or the production of oil and gas among the fields of Idaho on the basis of market demand. This act shall never be construed to require, permit, or authorize the commission or any court to make, enter, or enforce any order, rule, regulation or judgment requiring restriction of production due to market demand of any pool or of any well (except as provided in section 47-319, Idaho Code, hereof) to an amount less than the well or pool can produce without waste in accordance with sound engineering practices.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 20, 2012.

CHAPTER 74
(S.B. No. 1226)

AN ACT
RELATING TO IDAHO REAL ESTATE LICENSE LAW; AMENDING SECTION 54-2013, IDAHO CODE, TO INCREASE THE MAXIMUM PREMIUM AMOUNT FOR ERRORS AND OMISSIONS INSURANCE COVERAGE.

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

SECTION 1. That Section 54-2013, Idaho Code, be, and the same is hereby amended to read as follows:

54-2013. ERRORS AND OMISSIONS INSURANCE. (1) Each licensee who is actively licensed under this chapter shall, as a condition to licensing, carry and maintain errors and omissions insurance to cover all licensed activities under the provisions of this chapter.

(2) The commission shall make the insurance required under the provisions of this section available to each licensee by contracting with an insurance provider for errors and omissions insurance coverage for each licensee after competitive, sealed bidding in accordance with chapter 57, ti-

tle 67, Idaho Code. The exact premium shall be set by the commission by motion.

(3) Any policy obtained by the commission shall be available to each licensee with no right on the part of the insurance provider to cancel coverage for any licensee.

(4) Each licensee shall have the option of obtaining errors and omissions insurance independently if the coverage contained in an independently obtained policy complies with the minimum requirements established by the commission.

(5) The commission shall determine the terms and conditions of coverage required under the provisions of this section including, but not limited to, the minimum limits of coverage, the permissible deductible and the permissible exemptions.

(6) A licensee seeking to obtain or renew an active license shall certify to the commission that he is in compliance with the insurance requirements of this section. A licensee who elects not to participate in the insurance program administered by the commission shall obtain a certificate of coverage, signed by an authorized agent or employee of the insurance carrier, reflecting proof of insurance meeting the requirements established by the commission. Upon request by the commission the licensee shall produce the certificate for inspection. Requests for certificates shall be sent by first class mail to the licensee's business or residence address as reflected by the commission's records and a copy of the request shall be sent to the licensee's designated broker, if any. A licensee failing to produce a certificate of coverage within thirty (30) days of a request to do so may have his license inactivated by the commission and shall not be entitled to reactivate the license unless and until he provides to the commission a certificate of coverage reflecting proof of insurance meeting the requirements of the commission. Nothing in this subsection shall limit the ability of the commission to investigate or discipline a licensee for failing to maintain insurance while on active status in violation of subsection (1) of this section or for violating any other section of chapter 20, title 54, Idaho Code, or any rule of the commission.

(7) If the commission is unable to obtain errors and omissions insurance coverage to insure all licensees who choose to participate in the insurance program at a reasonable premium, not to exceed two hundred fifty dollars (\$2050) per year, per licensee, the requirement of insurance coverage as provided in this section shall be void during the applicable contract period.

(8) The commission is also specifically empowered to charge and collect an administrative fee in addition to the premium paid from each licensee who obtains errors and omissions insurance through the commission contract, which fee shall not exceed ten dollars (\$10.00) per licensee. This administrative fee shall be of an amount sufficient to raise that revenue required to administer the provisions of this section. The limit in subsection (7) of this section applies only to premium cost and not to any administrative fee charged.

Approved March 20, 2012.

CHAPTER 75
(S.B. No. 1227)

AN ACT

RELATING TO IDAHO REAL ESTATE LICENSE LAW; AMENDING SECTION 54-2023, IDAHO CODE, TO PROVIDE ADDITIONAL REQUIREMENTS RELATING TO CONTINUING EDUCATION CLASSROOM HOURS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-2023, Idaho Code, be, and the same is hereby amended to read as follows:

54-2023. CONTINUING EDUCATION REQUIREMENTS. Each licensee applying to renew an Idaho real estate license on active status, and each Idaho licensee applying to change from inactive to active license status, shall successfully complete a commission core course, plus the required number of classroom hours of commission-approved or certified continuing education coursework as provided in this section.

(1) Required number of classroom hours. The required number of classroom hours is as follows:

(a) Renewing license on active status. A licensee renewing on active status must successfully complete a commission core course, plus sixteen (16) classroom hours of continuing education, on or before the current license expiration date.

(b) Change from inactive to active. Unless the licensee is within the initial licensing period, a licensee changing from inactive to active license status shall complete a commission core course, plus sixteen (16) classroom hours of continuing education, before he can change to active license status. If the inactive licensee is within his initial licensing period, no continuing education is required to change to active license status.

(c) Credits used to reactivate license. Continuing education credit hours applied to activate an inactive license are considered "spent" and may not thereafter be applied toward the continuing education requirements for subsequent license renewal.

(2) No duplicate credit. No licensee may obtain continuing education credit for completing:

(a) Any core course curriculum for which he has previously received continuing education credit; or

(b) Any course curriculum for which he has received continuing education credit in the same license period.

(3) Excess credits. The classroom hours shall apply to the license period in which such course is completed; hours completed in excess of those required for the license period shall not accumulate or be credited for the purposes of subsequent license renewal periods.

(4) Commission-ordered education. No licensee shall obtain continuing education credit for education ordered by the commission as part of a disciplinary action.

(5) Obtaining continuing education classroom hours. In order to obtain continuing education classroom hours, a licensee must:

(a) Successfully complete a commission-approved continuing education course;

(b) Successfully complete a commission-approved continuing education challenge exam;

(c) Attend a regularly scheduled meeting of the commission from the time the meeting is called to order until the meeting is adjourned or until the licensee is excused by the commission chairperson. A maximum

of four (4) hours for this activity shall be credited for any one (1) meeting in any one (1) license period;

(d) Successfully complete a commission-approved broker prelicense course, or a commission-approved continuing education challenge exam, in advanced real estate study. Continuing education credit may be obtained for retaking the same broker prelicense course or challenge exam only if completed after three (3) years of completing the previous course or challenge exam; or

(e) Provide to the commission a transcript or course completion certificate of successful completion of any of the following courses without commission preapproval of the curriculum, instructors or providers:

(i) Professional designation courses. Any course developed by national professional organizations that is required in order to earn professional designations from a national organization in specialized areas of licensed real estate practice;

(ii) Courses accredited by another profession or jurisdiction. Any course approved by and offered in satisfaction of another professional or occupational licensing authority's education requirements, if the commission determines that the course is within the approved topic areas established by the commission and if the course otherwise meets commission standards for course certification including distance learning and minimum classroom hour requirements; or

(iii) Courses offered by an accredited college or university. Any course offered in satisfaction of a degree requirement by an accredited college or university if the commission determines that the course is within the approved topic areas established by the commission.

(f) If a certified course instructor, teach a live course for which continuing education credit may be obtained. Credits shall be granted for the number of classroom hours taught.

(6) Licensee duty to keep satisfactory proof. The licensee shall keep satisfactory proof of having completed the continuing education requirement and shall submit such proof at the request of the commission as provided in section 54-2018, Idaho Code.

(7) Provisional license -- Extension of time. A ~~three-month~~ three (3) month extension of time for completing the education requirements may be obtained by submitting with the renewal application, or application to activate, satisfactory evidence showing that the applicant was unable to comply with such education requirements. Such evidence shall be:

(a) Bona fide hardship preventing completion of the reinstatement requirements of an inactive license;

(b) Health reasons preventing attendance or completion; or

(c) Other compelling cause beyond the control of the applicant while engaged in the real estate business.

If such an extension is granted, the licensee shall receive a provisional license for a period of time not to exceed three (3) months. No further extension of time may be granted. A license issued or renewed after an extension of time has been granted shall retain the original license expiration date. Failure to satisfy the continuing education requirement within the time granted shall result in the automatic inactivation of the license.

Approved March 20, 2012.

CHAPTER 76
(S.B. No. 1228)

AN ACT

RELATING TO IDAHO REAL ESTATE LICENSE LAW; AMENDING SECTION 54-2012, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE MINIMUM REQUIREMENTS FOR AN INDIVIDUAL PRIMARY IDAHO LICENSE; AND AMENDING SECTION 54-2093, IDAHO CODE, TO REMOVE AN OBSOLETE TERM.

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

SECTION 1. That Section 54-2012, Idaho Code, be, and the same is hereby amended to read as follows:

54-2012. MINIMUM REQUIREMENTS FOR AN INDIVIDUAL PRIMARY IDAHO LICENSE. (1) Requirements for all individual primary licenses. Unless a qualification is waived or modified by the commission for good cause and upon special consideration, and except as provided in section 54-2015, Idaho Code, each person seeking a primary Idaho real estate license as a salesperson, associate broker or designated broker shall meet all of the following minimum qualifications:

- (a) Be an individual;
- (b) Be eighteen (18) years of age or older;
- (c) Furnish satisfactory proof that the applicant graduated from an accredited high school or its equivalent or holds a certificate of general education;
- (d) Not have had a real estate or other professional or occupational license ~~revoked~~, suspended or surrendered, or the renewal refused, for a disciplinary violation involving fraud, misrepresentation or dishonest or dishonorable dealing, in Idaho or any other jurisdiction, within five (5) years immediately prior to the date the application for license is submitted to the commission;
- (e) Not have had a real estate or other professional or occupational license revoked for a disciplinary violation involving fraud, misrepresentation or dishonest or dishonorable dealing, in Idaho or any other jurisdiction; provided that, after a period of five (5) years from the date the license was revoked, the applicant may make a written request to the commission for an exemption review to determine the applicant's suitability for licensure, which the commission shall determine in accordance with the following:
 - (i) The exemption review shall consist of a review of any documents relating to the disciplinary action that resulted in the license revocation and any supplemental information provided by the applicant bearing upon his suitability for licensure. The commission may, at its discretion, grant an interview of the applicant.
 - (ii) During the review, the commission shall consider the following factors and evidence:
 1. The severity or nature of the disciplinary violation for which the applicant's license was revoked;
 2. The period of time that has passed since the disciplinary violation occurred;
 3. The existence, number and pattern of any other misconduct for which the applicant has been disciplined;
 4. The circumstances surrounding the disciplinary violation that would help the commission determine the risk of repetition;
 5. The relationship of the disciplinary violation to the licensed practice of real estate; and

6. The applicant's activities since the disciplinary violation under review, such as employment, education, participation in treatment, payment of restitution or any other factors that may be evidence of current rehabilitation.

(iii) The applicant shall bear the burden of establishing his current suitability for licensure.

(f) Not have been convicted or completed any sentence of confinement for or on account of any misdemeanor involving fraud, misrepresentation or dishonest or dishonorable dealing, in a state or federal court, within five (5) years immediately prior to the date the application for license is submitted to the commission;

(g) Not have been convicted of any felony in a state or federal court or convicted by military general court-martial; provided that, after a period of five (5) years from the date the person was convicted or completed any term of probation, sentence or confinement or period of parole, whichever is later, the applicant may make written request to the commission for an exemption review to determine the applicant's suitability for licensure, which the commission shall determine in accordance with the following:

(i) The exemption review shall consist of a review of any documents relating to the felony and any supplemental information provided by the applicant bearing upon his suitability for licensure. The commission may, at its discretion, grant an interview of the applicant.

(ii) During the review, the commission shall consider the following factors or evidence:

1. The severity or nature of the felony;
2. The period of time that has passed since the felony under review;
3. The number or pattern of felonies or other similar incidents;
4. The circumstances surrounding the crime that would help determine the risk of repetition;
5. The relationship of the crime to the licensed practice of real estate; and
6. The applicant's activities since the crime under review, such as employment, education, participation in treatment, payment of restitution or any other factors that may be evidence of current rehabilitation.

(iii) The applicant shall bear the burden of establishing his current suitability for licensure.

(h) Complete all prelicense education requirements as provided for in section 54-2022, Idaho Code, for a salesperson's or broker's license;

(i) Pass the commission-approved real estate licensing exam for a sales or broker license in the time and manner stated in section 54-2014, Idaho Code, and pay the required exam fees;

(j) Be fingerprinted for the purpose of a national criminal history check to determine whether the applicant is qualified for licensure and pay all fees associated with the fingerprinting and background check services. If the fingerprints are returned to the commission as illegible the applicant shall, upon request from the commission, be fingerprinted again and file the new fingerprints with the commission;

(k) Sign and file with the commission an irrevocable consent to service, appointing the commission's executive director to act as the licensee's agent upon whom all judicial and other process or legal notices directed to such licensee may be served, and consenting that any lawful process against the licensee that is served upon the executive director shall be of the same legal force and validity as if served upon the licensee and that the authority shall continue in force so long as

any liability remains outstanding in this state. Upon receipt of any such process or notice, the executive director shall immediately mail a copy of the same by certified mail to the last known address of the licensee. All licensees shall provide the commission a full and current mailing address and shall notify the commission in writing of any change in mailing address within ten (10) business days of the change;

(l) If licensing as an active salesperson or associate broker, provide the name and physical address of the main business location of the designated broker with whom the applicant will be licensed, and the signature of that broker; or, if licensing as a designated broker, provide the name and physical address of the main business location. No Idaho sales associate may be licensed under or associated with more than one (1) Idaho broker at a time;

(m) Submit a properly completed application and all license, application and other fees listed in section 54-2020, Idaho Code, or as otherwise required by statute or rule; and

(n) Provide satisfactory proof of meeting the mandatory errors and omissions insurance requirement for real estate licensees as stated in section 54-2013, Idaho Code.

(2) Additional requirements for broker and associate broker licenses. Applicants seeking a primary Idaho license as a broker or associate broker shall meet the additional following qualifications:

(a) Provide satisfactory evidence of having been actively engaged, on a full-time basis, for two (2) years as a licensed real estate salesperson within five (5) years immediately prior to the date upon which the individual makes application. Such evidence shall demonstrate the productivity of the licensed activity to have been generally commensurate with that of other licensees practicing in a similar capacity. Listings, sales, options or other licensed activities may be considered by the commission in determining whether the applicant meets this qualification.

(i) A broker or associate broker applicant may be required to furnish a report of listings and sales accomplished by the applicant during two (2) or more years within the last five (5) years of licensure immediately prior to the application date;

(ii) This report shall be certified as correct by the broker or brokers with whom the applicant has been associated, provided however, that upon preapproval by the commission, the applicant may verify that the report is correct in an alternative manner;

(iii) The broker experience requirement may be modified or reduced, in whole or in part, at the discretion of the commission, based upon the applicant's educational background, or experience in related or affiliated business activities;

(iv) The commission in its discretion may make such additional investigation and inquiry relative to the applicant as it shall deem advisable;

(b) Designate a physical office location and a business name. The commission may refuse to issue a license to any person if the business name is the same as that of any person whose license has been suspended or revoked or is so similar as to be easily confused with another licensee's name by members of the general public. However, nothing in this paragraph shall restrict an individual from obtaining a license in his or her own legal name.

(c) If currently licensed in Idaho as a salesperson and applying for a license as an Idaho broker or associate broker, the individual shall submit a new fingerprint card for processing and pay associated fees.

SECTION 2. That Section 54-2093, Idaho Code, be, and the same is hereby amended to read as follows:

54-2093. VICARIOUS LIABILITY ABOLISHED. (1) A client, as defined in this chapter, whether buyer or seller, shall not be liable for a wrongful act, error, omission or misrepresentation of his broker or his broker's licensees unless the client had actual knowledge of or reasonably should have known of the wrongful act, error, omission or misrepresentation.

(2) A licensee or brokerage engaged in representation of a client shall be entitled to rely upon representations made by a client and shall not be liable for a wrongful act, error, omission or misrepresentation made by the client ~~or made by any subagent~~ unless the licensee or brokerage had actual knowledge or reasonably should have known of the wrongful act, error, omission or misrepresentation.

(3) Nothing in this section shall be construed to diminish or limit any of the broker's or licensee's responsibilities under chapter 20, title 54, Idaho Code, or the rules promulgated thereunder.

Approved March 20, 2012.

CHAPTER 77
(S.B. No. 1259)

AN ACT

RELATING TO AGRICULTURE; AMENDING SECTION 22-3301, IDAHO CODE, TO REVISE A DECLARATION OF POLICY; AMENDING SECTION 22-3302, IDAHO CODE, TO PROVIDE THAT MEMBERS SHALL SERVE AT THE PLEASURE OF THE GOVERNOR, TO REMOVE AN ASSOCIATION DESCRIPTION AND TO PROVIDE THE NAME OF AN ASSOCIATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-3304, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-3305, IDAHO CODE, TO REMOVE ARCHAIC PROVISIONS, TO PROVIDE THAT THE EXECUTIVE COMMITTEE MAY REQUEST THE REMOVAL OF A COMMISSIONER AND TO PROVIDE THAT UPON RECEIPT OF A REQUEST FOR REMOVAL OF A COMMISSIONER, THE GOVERNOR MAY WITHDRAW THE COMMISSIONER'S APPOINTMENT; AMENDING SECTION 22-3308, IDAHO CODE, TO PROVIDE THAT TWO OR MORE COMMISSION MEMBERS MAY MAKE A WRITTEN REQUEST FOR A MEETING; AMENDING SECTION 22-3309, IDAHO CODE, TO REMOVE REFERENCE TO THE IDAHO STATE WHEAT GROWERS' ASSOCIATION, TO AUTHORIZE THE CALLING OF REFERENDUMS AND TO PROVIDE REFERENCE TO SPECIFIC LAW RELATING TO INSPECTION OF BOOKS, RECORDS AND ACCOUNTS BY THE PUBLIC; AMENDING SECTION 22-3310, IDAHO CODE, TO PROVIDE FOR THE SOLICITATION OF GRANTS, DONATIONS AND GIFTS BY THE COMMISSION; AMENDING SECTION 22-3311, IDAHO CODE, TO PROVIDE THAT THE COMMISSION MAY REQUIRE THAT THE EXECUTIVE DIRECTOR OR ANY AGENT OR EMPLOYEE APPOINTED BY THE COMMISSION BE BONDED; AMENDING SECTION 22-3312, IDAHO CODE, TO REMOVE PROVISIONS RELATING TO CERTAIN DUTIES OF THE EXECUTIVE DIRECTOR; REPEALING SECTION 22-3313, IDAHO CODE, RELATING TO ESTABLISHMENT OF THE EXECUTIVE DIRECTOR'S OFFICE; AMENDING SECTION 22-3315, IDAHO CODE, TO REVISE AN EFFECTIVE DATE AND TO REVISE PROVISIONS RELATING TO THE MAXIMUM TAX PER BUSHEL ON CERTAIN WHEAT; AND AMENDING SECTION 22-3318, IDAHO CODE, TO REMOVE REFERENCE TO A SPECIFIC FUND, TO PROVIDE FOR THE PAYMENT OF FINES INTO CERTAIN ACCOUNTS OF THE COMMISSION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 22-3301, Idaho Code, be, and the same is hereby amended to read as follows:

22-3301. DECLARATION OF POLICY. It is to the interest of all the people that the abundant natural resources of Idaho be protected, fully developed and uniformly distributed. Among the agricultural industries of the state of Idaho that contribute to the economic welfare of the state is the wheat industry. ~~Because of a surplus of wheat grown in this state, and because a surplus during recurrent years has become excessive and difficult to market in the available markets, it is necessary, in order to provide a profitable enterprise for the wheat growers of the state and to promote employment of labor and to assist the wheat growers and those in the various industries dependent upon the wheat growers, that additional markets be found and developed.~~ It is the purpose of this act to promote the public health and welfare of the citizens of our state by providing means for the protection, promotion, study, research, analysis and development of markets concerning the growing and marketing of Idaho wheat.

SECTION 2. That Section 22-3302, Idaho Code, be, and the same is hereby amended to read as follows:

22-3302. WHEAT COMMISSION CREATED -- MEMBERS. There is hereby created and established in the department of self-governing agencies the "Idaho Wheat Commission" to be composed of five (5) members appointed by, and serving at the pleasure of, the governor, one (1) from each of the five (5) commission districts referred to in section 22-3304, Idaho Code, who shall be appointed by the governor from a list of names with at least three (3) names for each appointive office for each district submitted to the governor by the Idaho Sstate Wwheat Ggrowers Aassociation, Inc., ~~a wheat growers association representing wheat growers throughout the state of Idaho doing business as the Idaho grain producers association,~~ and they shall hold office for a term of five (5) years. The dean of the Ccollege of Aagriculture, Uuniversity of Idaho, or his duly authorized representative, shall be an ex officio members without vote of the commission.

SECTION 3. That Section 22-3304, Idaho Code, be, and the same is hereby amended to read as follows:

22-3304. QUALIFICATION OF MEMBERS. (1) Members of the commission shall be selected and appointed because of their ability and disposition to serve the state's interest and for knowledge of the state's natural resources. Members shall be citizens over twenty-five (25) years of age, residents of the state who have been actually engaged in growing wheat in this state for at least five (5) years, and who derive a substantial portion of their income from growing wheat in the state of Idaho.

(2) There shall be one (1) member from each of the five (5) districts described hereinafter:

District 1. The six (6) northern counties: Boundary, Bonner, Kootenai, Benewah, Latah and Shoshone.

District 2. Nez Perce, Lewis, Idaho, Adams, Washington, Payette, Gem, Boise, Valley and Clearwater Counties.

District 3. Canyon, Owyhee, Ada, Elmore, Camas, Gooding, Twin Falls, Blaine, Lincoln, Jerome, Minidoka and Cassia Counties.

District 4. Lemhi, Custer, Butte, Clark, Fremont, Jefferson, Madison, Teton, Bingham and Bonneville Counties.

District 5. Power, Bannock, Caribou, Oneida, Franklin and Bear Lake Counties.

SECTION 4. That Section 22-3305, Idaho Code, be, and the same is hereby amended to read as follows:

22-3305. TERM OF MEMBERS. (1) Each year the governor shall appoint one (1) member to the commission for a term of five (5) years ending on June 30th, ~~except the first members who shall be appointed for terms of one (1) to five (5) years each, as follows: District No. 1, three (3) years; District No. 2, four (4) years; District No. 3, two (2) years; District No. 4, one (1) year; District No. 5, five (5) years; except that a member appointed to fill a vacancy occurring before the expiration of the term of a member separated from the commission for any cause, shall be appointed for the remainder of the term of the member whose position has been vacant.~~

(2) Each member shall hold office until his successor is appointed and qualified.

(3) The executive committee of the Idaho state wheat growers association, doing business as the Idaho grain producers association, may request the removal of a commissioner, with or without cause, by a majority vote. Upon receipt of the request, the governor may immediately withdraw the commissioner's appointment.

SECTION 5. That Section 22-3308, Idaho Code, be, and the same is hereby amended to read as follows:

22-3308. MEETINGS OF COMMISSION. The commission shall meet at least once every three (3) months regularly and at such other times as called by the chairman or upon the written request of two (2) or more commission members. The chairman may call special meetings of the commission at any time or place.

SECTION 6. That Section 22-3309, Idaho Code, be, and the same is hereby amended to read as follows:

22-3309. DUTIES AND POWERS OF COMMISSION. (1) Consistent with the general purposes of this chapter, the commission shall establish the policies to be followed in the accomplishments of such purposes.

(2) In the administration of this act, the commission shall, ~~in conjunction with the Idaho State Wheat Growers' Association,~~ have the following duties, authorities and powers:

- (a) To conduct a campaign of research, education and publicity.
- (b) To find new markets for wheat and wheat products.
- (c) To give, publicize and promulgate reliable information showing the value of wheat and wheat products for any purpose for which it is found useful and profitable.
- (d) To make public and encourage the widespread national and international use of the special kinds of wheat and wheat products produced from all varieties of wheat grown in Idaho.
- (e) To investigate and participate in studies of the problems peculiar to the producers of wheat in Idaho.

(3) The commission shall have the duty, power and authority:

- (a) To take such action as the commission deems necessary or advisable in order to stabilize and protect the wheat industry of the state and the health and welfare of the public.
- (b) To sue and be sued.
- (c) To enter into such contracts as may be necessary or advisable.
- (d) To appoint and employ officers, agents and other personnel, including experts in agriculture and the publicizing of the products thereof, and to prescribe their duties and fix their compensation.

(e) To make use of such advertising means and methods as the commission deems advisable and to enter into contracts and agreements for research and advertising within and without the state.

(f) To cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state or by national law, engaged in work or activities similar to the work and activities of the commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education and publicity and reciprocal enforcement.

(g) To lease, purchase or own the real or personal property deemed necessary in the administration of this act.

(h) To prosecute in the name of the state of Idaho any suit or action for collection of the tax or assessment provided for in this act.

(i) To adopt, rescind, modify and amend all necessary and proper orders, resolutions and regulations for the procedure and exercise of its powers and the performance of its duties, including the calling of any referendum of the wheat growers in the state of Idaho as deemed necessary by the commission.

(j) To incur indebtedness and carry on all business activities.

(k) To keep books and records and accounts of all its doings, which books, records and accounts shall be open to inspection by the state controller ~~and public~~ at all times and to the public as set forth in chapter 3, title 9, Idaho Code.

SECTION 7. That Section 22-3310, Idaho Code, be, and the same is hereby amended to read as follows:

22-3310. COMMISSION ACCEPTING GRANTS, DONATIONS AND GIFTS. The commission may solicit and accept grants, donations and gifts of funds from any source for expenditure for any purpose consistent with this chapter which may be specified as a condition of any grant, donation or gift. All funds received under the provisions of this chapter shall be paid into a bank account in the name of the Idaho wheat commission and such moneys are hereby continuously appropriated and made available for defraying the expenses of the commission in carrying out the provisions of this chapter.

SECTION 8. That Section 22-3311, Idaho Code, be, and the same is hereby amended to read as follows:

22-3311. BONDS OF AGENTS AND EMPLOYEES. The commission may require that the executive director, or any agent or employee appointed by the commission shall be bonded to the state of Idaho in the time, form and manner as prescribed by chapter 8, title 59, Idaho Code. The cost of the bond is an administrative expense under this chapter.

SECTION 9. That Section 22-3312, Idaho Code, be, and the same is hereby amended to read as follows:

22-3312. APPOINTMENT OF EXECUTIVE DIRECTOR -- DUTIES -- SALARY. The commission shall appoint an executive director who shall devote full time to the administration of this chapter. ~~He shall proceed immediately to prepare the plans and general program necessary and adequate to carry out the policies that are adopted by the commission.~~ The executive director shall be paid a reasonable salary fixed by the commission, commensurate with his duties, and all necessary expenses.

SECTION 10. That Section 22-3313, Idaho Code, be, and the same is hereby repealed.

SECTION 11. That Section 22-3315, Idaho Code, be, and the same is hereby amended to read as follows:

22-3315. IMPOSITION OF TAX AND PROVISION FOR LATE FEES. (1) From and after the first day of July, ~~1992~~2012, there is hereby levied and imposed a tax not to exceed ~~two~~ five cents (~~25¢~~) per bushel on all wheat grown in the state of Idaho or given to Idaho growers under a crop reduction program, and sold or contracted through commercial channels, and each and every crop grown or wheat given to growers under a crop reduction program thereafter. The tax shall be due on wheat given to growers under a crop reduction program and sold or contracted through commercial channels, regardless of any deduction of the tax on this same wheat prior to it being given to the grower. The tax shall be due on or before the time when such wheat is first sold or contracted in the commercial channels and shall be paid at such time or times as the commission may, by rule, prescribe, as hereinafter provided, but not later than the 15th day of the month next succeeding the three (3) month period in which such wheat is sold or contracted in commercial channels. The commission shall designate the quarters (three (3) month periods) for the purpose of collection of this tax.

(2) The tax shall be levied and assessed to the grower at the time of delivery for sale and shall be deducted by the first purchaser from the price paid to the grower at the time of sale or in case of a lienholder who may possess such wheat under his lien, the tax shall be deducted by the lienholder from the proceeds of the claim secured by such lien at the time the wheat is pledged or mortgaged. The tax shall be deducted as provided in this section whether the wheat is stored in this or any other state. The commission may, however, permit any federal corporation, such as the commodity credit corporation, to waive its responsibility for the collection of the tax, provided the amount of the tax is one dollar (\$1.00) or less.

(3) It shall be within the discretion of the commission to establish the amount of the tax to be levied. The amount of the tax to be levied shall not exceed ~~two~~ five cents (~~25¢~~) per bushel for any fiscal year. The decision whether to adjust the amount of the tax to be levied and the time for which the adjusted levy shall be in effect shall require the vote of a majority of the commission members.

(4) The tax constitutes a lien prior to all other liens and encumbrances upon such wheat except liens which are declared prior by operation of a statute of this state.

(5) Any person or firm who makes payment to the commission at a date later than that prescribed in this section may be subject to a late payment penalty as set forth by the commission by rule. Such penalty shall not exceed the rate of fifteen percent (15%) per annum on the amount due. In addition to the above penalty, the commission shall be entitled to recover all costs, fees, and reasonable attorney's fees incurred in the collection of the tax and penalty provided for in this section.

SECTION 12. That Section 22-3318, Idaho Code, be, and the same is hereby amended to read as follows:

22-3318. PENALTIES. Any person who shall violate or aid in the violation of any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof be punished by a fine of not more than three hundred dollars (\$300) or imprisonment not to exceed ninety (90) days, or both. Fines collected for violation of this act shall be paid into ~~the "Idaho Wheat Commission Fund."~~ any account of the commission established pursuant to section 22-3319, Idaho Code.

CHAPTER 78
(S.B. No. 1272)

AN ACT

RELATING TO TELEGRAPHS; AMENDING SECTION 19-616, IDAHO CODE, TO DELETE PROVISIONS RELATING TO TELEGRAPHING, TO PROVIDE THAT A WARRANT OF ARREST MAY BE SENT BY CERTAIN PROCESSES AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 19-617, IDAHO CODE, RELATING TO TELEGRAPHIC COPIES OF WARRANTS; REPEALING SECTIONS 62-414 THROUGH 62-417, IDAHO CODE, RELATING TO TELEGRAPHIC COMMUNICATIONS.

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

SECTION 1. That Section 19-616, Idaho Code, be, and the same is hereby amended to read as follows:

19-616. TELEGRAPHING TELECOMMUNICATION OF WARRANT FOR SERVICE. A ~~justice of the Supreme Court or probate judge may, by an indorsement under his hand upon a warrant of arrest, authorize the service thereof by telegraph, and thereafter a telegraphic copy of such warrant may be sent by telegraph~~ telecommunication process or facsimile process to one (1) or more peace officers, and such a copy of a warrant sent in such manner is as effectual in the hands of any officer, and he must proceed in the same manner under it as though he held an original warrant issued by the magistrate making the indorsement.

SECTION 2. That Section 19-617, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Sections 62-414 through 62-417, Idaho Code, be, and the same are hereby repealed.

Approved March 20, 2012.

CHAPTER 79
(H.B. No. 379)

AN ACT

RELATING TO OIL AND GAS; AMENDING SECTION 47-330, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE LEVY AND IMPOSITION OF A TAX ON ALL OIL AND GAS PRODUCED, SAVED AND SOLD OR TRANSPORTED FROM PREMISES IN IDAHO, TO PROVIDE FOR THE AMOUNT OF TAX TO BE LEVIED AND IMPOSED, TO CLARIFY THAT CERTAIN ACTIVITY DOES NOT CONSTITUTE TRANSPORTATION FROM THE PREMISES PRIOR TO SALE, TO PROVIDE THAT THE TAX IS IN ADDITION TO ALL OTHER TAXES, TO PROVIDE THAT THE STATE TAX COMMISSION SHALL ENFORCE COLLECTION OF THE TAX AND MAKE CERTAIN RULES, TO REVISE PROVISIONS RELATING TO THE LIABILITY FOR SUCH TAX AND THE PAYMENT OF SUCH TAX, TO REVISE PROVISIONS RELATING TO SPECIFIED EXEMPTIONS FROM THE TAX, TO PROVIDE THAT SPECIFIED PROVISIONS OF THE IDAHO INCOME TAX ACT SHALL APPLY AND BE AVAILABLE TO THE STATE TAX COMMISSION FOR ENFORCEMENT, ASSESSMENT AND COLLECTION OF SUCH TAXES AND TO PROVIDE THAT THE PROVISIONS SHALL BE CONSIDERED A PART OF SPECIFIED LAW, TO PROVIDE THAT CERTAIN LIENS AND PROCEEDINGS SHALL BE CONSIDERED OIL AND GAS LIENS AND PROCEEDINGS, TO PROVIDE THAT THE STATE TAX COMMISSION MAY BE MADE A PARTY DEFENDANT IN CERTAIN ACTIONS, TO PROVIDE THAT THE STATE OF IDAHO SHALL BE RESPONSIBLE FOR CERTAIN FINAL JUDGMENTS AGAINST THE STATE TAX COMMISSION AND TO

PROVIDE FOR PAYMENT OUT OF THE STATE REFUND ACCOUNT, TO PROVIDE FOR DISTRIBUTION OF MONEYS COLLECTED, TO PROVIDE FOR THE EXPENDITURE AND TRANSFER OF SPECIFIED AMOUNTS, TO PROVIDE FOR THE AUDIT AND PAYMENT OF BILLS FOR SALARIES AND EXPENSES AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 47-331, IDAHO CODE, RELATING TO ADDITIONAL TAX ON OIL AND GAS PRODUCED; REPEALING SECTION 47-332, IDAHO CODE, RELATING TO THE DISTRIBUTION OF REVENUES; PROVIDING AN EFFECTIVE DATE AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 47-330, Idaho Code, be, and the same is hereby amended to read as follows:

47-330. OIL AND GAS CONSERVATION FUND CREATED -- TAX. (1) For the purposes of paying the expenses of administration of this act and for the privilege of extracting oil and gas in this state, there is hereby established a special fund to be known as the "Oil and Gas Conservation Fund", and there is hereby levied and imposed on all oil and gas produced, saved and sold or transported from the premises in Idaho where produced a tax not to exceed five (5) mills per barrel of oil or per 50,000 cubic feet of gas. The commission shall by order fix the amount of such charge in the first instance and shall thereafter at its first meeting after the commencement of its fiscal year, determine such charge for the ensuing year as in its judgment the expenses chargeable against the oil and gas conservation fund may require; provided that the amounts fixed by the commission shall not exceed the limit hereinabove prescribed. It shall be the duty of the commission to enforce collection of such assessments and to make such rules and regulations as may be necessary to enforce such charges of two and one-half percent (2.5%) of the market value of the oil or gas produced at the site of production. If the oil and gas is transported from the premises prior to sale, then the tax will be determined based on the published Henry Hub spot price for gas or WTI Cushing spot price for crude oil at the close of business the day the oil or gas leaves the premises. Transportation from the premises prior to the sale does not include movement of oil or gas from the wellhead to another site in Idaho by the same person for dehydration or other processing required for sale. This tax is in addition to all other taxes provided by law. It shall be the duty of the state tax commission to enforce collection of this tax and to make such rules as may be necessary, pursuant to the provisions of chapter 52, title 67, Idaho Code. All money so collected shall be remitted to the state treasurer for deposit in the oil and gas conservation fund, which fund is hereby created in the office of the state treasurer of the state of Idaho, and is hereby appropriated and made available for defraying the expenses of the commission in carrying out the provisions of this act. The commission shall audit all bills for salaries and expenses incurred in the enforcement of this act that may be payable from the oil and gas conservation fund which shall be audited, allowed and paid as to the claims against the state.

(2) The persons owning an interest (working interest, royalty interest, payments out of production, or any other interest), in the oil and gas, or in the proceeds thereof, subject to the charge hereinabove provided for, shall be liable for such charge tax in proportion to their ownership at the time of production. The charge tax so assessed and fixed shall be payable quarterly, and the sum so due shall be remitted to the state tax commission, on or before the twenty-fifth twentieth (25th) of the next month following the preceding quarter in which the charge tax accrued, by the producer on behalf of himself and all other interested persons; provided, however, in the event of a sale of oil or gas within this state said charge may be payable by the purchaser thereof. Any such charge not paid within the time herein specified shall bear interest at the rate of one per cent (1%) per month from the

~~date of delinquency until paid, and such charge, together with the interest, shall be a lien upon the oil or gas against which the same is levied and assessed, or, if the same is not available for a lien, upon any oil or gas owned or held by the persons responsible for paying said charge. The person remitting the charge tax, as herein provided, is hereby empowered and required to deduct from any amounts due the persons owning an interest in the oil and gas, or in the proceeds thereof, at the time of production a proportionate amount of such charge tax before making payment to such persons.~~

(3) The tax imposed by tThis section shall apply to all lands in the state of Idaho, anything in this act to the contrary notwithstanding; provided, however, there shall be exempted from the charge tax hereinabove levied and assessed the following, to-wit to wit:

(a) The interest of the United States of America and the interest of the state of Idaho and the political subdivisions thereof in any oil or gas or in the proceeds thereof.

(b) The interest of any Indian or Indian tribe in any oil or gas or the proceeds thereof, produced from lands subject to the supervision of the United States.

(c) Oil and gas used in producing operations or for repressuring or re-cycling purposes.

(4) To the extent that such sections are not in conflict with the provisions of this act, the deficiency in tax and notice of deficiency as well as the collection and enforcement procedures provided by the Idaho income tax act, sections 63-3038, 63-3039, 63-3040, 63-3042 through 63-3065A, 63-3068, 63-3071 and 63-3075 through 63-3078, Idaho Code, shall apply and be available to the state tax commission for enforcement of the provisions of this act and the assessment and collection of any amounts due. Said sections shall for this purpose be considered a part of this act and wherever liens or any other proceedings are defined as income tax liens or proceedings they shall, when applied in enforcement or collection pursuant to this act, be described as an oil and gas tax lien or proceeding.

The state tax commission may be made a party defendant in an action at law or in equity by any person aggrieved by the unlawful seizure or sale of his property, or in any suit for refund or to recover an overpayment, but only the state of Idaho shall be responsible for any final judgment secured against the state tax commission, and said judgment or any other amount erroneously or illegally collected shall be paid or satisfied out of the state refund account created by section 63-3067, Idaho Code.

(5) All moneys collected under this chapter shall be distributed by the state tax commission as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized under this chapter by the state tax commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(b) For the balance of the proceeds, forty percent (40%) shall be distributed by the end of the month following each quarterly due date by the state tax commission into any oil and gas revenue share account as follows:

(i) Twenty-eight percent (28%) is hereby appropriated and shall be paid to the current expense fund of the county from which the oil or gas was produced;

(ii) Twenty-eight percent (28%) is hereby appropriated and shall be paid to the cities within the county from which the oil or gas was produced. Such funds shall be distributed to each city based upon the proportion that the city's population bears to the total population of all of the cities within the county;

(iii) Twenty-eight percent (28%) is hereby appropriated and shall be paid to the public school income fund; and

(iv) Sixteen percent (16%) shall be transferred to the local economic development account that is hereby created in the agency asset fund to provide assistance in those counties experiencing a severe economic hardship due to the cutback or closure of business and industry associated with oil or gas production.

(c) The remainder of the moneys deposited into the oil and gas conservation fund, sixty percent (60%) of the proceeds after refunds, may be expended pursuant to legislative appropriation and shall be used for defraying the expenses of the oil and gas conservation commission in carrying out the provisions of this act. At the beginning of each fiscal year, those moneys in the oil and gas conservation fund, after applicable refunds and distribution as noted in paragraphs (a) and (b) of this subsection, that exceed two hundred percent (200%) of the current year's appropriations for the oil and gas conservation commission shall be transferred to the general fund. The oil and gas conservation commission shall audit all bills for salaries and expenses incurred in the enforcement of this act that may be payable from the oil and gas conservation fund which shall be audited, allowed and paid as to the claims against the state.

SECTION 2. That Section 47-331, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 47-332, Idaho Code, be, and the same is hereby repealed.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after April 1, 2012.

Approved March 20, 2012.

CHAPTER 80
(H.B. No. 526)

AN ACT

RELATING TO OIL AND GAS; AMENDING SECTION 47-325, IDAHO CODE, AS AMENDED IN SECTION 3 OF HOUSE BILL NO. 463, AS ENACTED BY THE SECOND REGULAR SESSION OF THE SIXTY-FIRST IDAHO LEGISLATURE, TO PROVIDE THAT CERTAIN VIOLATIONS MAY BE PUNISHABLE BY OTHER LIKE CIVIL PENALTIES AS DETERMINED BY THE OIL AND GAS CONSERVATION COMMISSION, TO PROVIDE THAT CERTAIN CIVIL PENALTIES SHALL BEGIN TO ACCRUE NO EARLIER THAN THE DATE NOTICE OF VIOLATION AND OPPORTUNITY FOR A HEARING ARE GIVEN AND TO PROVIDE THAT ANY PERSON WHO KNOWINGLY FAILS OR REFUSES TO COMPLY WITH CERTAIN SPECIFIED REQUIREMENTS OR WHO KNOWINGLY INTERFERES WITH THE COMMISSION, ITS AGENTS, DESIGNEES OR EMPLOYEES IN THE EXECUTION OR ON ACCOUNT OF THE EXECUTION OF CERTAIN DUTIES SHALL BE GUILTY OF A MISDEMEANOR AND SUBJECT TO SPECIFIED PENALTIES.

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

SECTION 1. That Section 47-325, Idaho Code, as amended in Section 3 of House Bill No. 463, as enacted by the Second Regular Session of the Sixty-first Idaho Legislature, be, and the same is hereby amended to read as follows:

47-325. POWERS OF COMMISSION -- WITNESSES -- PENALTY. (a) The commission shall have the power to summon witnesses, to administer oaths, and to

require the production of records, books, and documents for examination at any hearing or investigation conducted by it.

(b) In case of failure or refusal on the part of any person to comply with a subpoena issued by the commission, or in case of refusal of any witness to testify as to any matter regarding which he may be interrogated, any district court in the state, upon the application of the commission, may issue an attachment for such person and compel him to comply with such subpoena, and to attend before the commission and produce such records, books, and documents for examination, and to give his testimony. Such court shall have the power to punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify therein.

(c) Any person who violates or fails to comply with any of the provisions of this chapter or any rules promulgated hereunder may be assessed a civil penalty by the commission or its duly authorized agent of not more than ten thousand dollars (\$10,000) for each violation and shall be liable for reasonable attorney's fees. Each day the violation continues shall constitute a separate and additional violation, punishable by separate and additional civil penalties in like amount or other like civil penalties as determined by the commission; provided that the civil penalties do not begin to accrue until the date notice of violation and opportunity to be heard are given.

(1) Assessment of a civil penalty may be made in conjunction with any other commission administrative action.

(2) No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to chapter 52, title 67, Idaho Code, which civil penalty begins to accrue no earlier than the date notice of violation and opportunity for a hearing are given.

(3) If the commission is unable to collect such penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the commission, it may recover such amount by action in the appropriate district court.

(4) Any person against whom the commission has assessed a civil penalty under the provisions of this section may, within twenty-eight (28) days of the final action by the agency making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the commission to have occurred pursuant to chapter 52, title 67, Idaho Code.

(5) All civil penalties collected pursuant to this section shall be remitted to the oil and gas conservation fund.

(d) Whenever it shall appear that any person is violating or threatening to violate any provision of this act or any rule, regulation, or order made hereunder, the commission may bring a civil action in the name of the state against such person in the district court in the county of the residence of the defendant, or in the county of the residence of any defendant, if there be more than one (1) defendant, or in the county where the violation is alleged to have occurred, to restrain such person from continuing such violation or from carrying out the threat of violation. In such suit, the court may grant injunctions, prohibitory and mandatory, including temporary restraining orders and temporary injunctions. In such suit, the commission may seek damages to recover costs caused by such violation including, but not limited to, costs of well control, spill response and cleanup, restoration of fresh waters, well plugging and abandonment, and reclamation of surface disturbance.

(e) Nothing in this act, and no suit by or against the commission, and no violation charged or asserted against any person under any provisions of this act, or any rule, regulation or order issued hereunder, shall impair or abridge or delay any cause of action for damages which any person may have or assert against any person violating any provision of this act, or any rule, regulation, or order issued thereunder. Any person so damaged by the viola-

tion may sue for and recover such damages as he otherwise may be entitled to receive. In the event the commission shall fail to bring suit to enjoin any actual or threatened violation of this act, or of any rule, regulation or order made hereunder, then any person or party in interest adversely affected and who has, ten (10) days or more prior thereto, notified the commission in writing of such violation or threat thereof and has requested the commission to sue, may, to prevent any or further violation, bring suit for that purpose in the district court of any county in which the commission could have brought suit.

(f) Any person who knowingly violates any provision of this chapter, or any of the rules promulgated hereunder for carrying out the provisions of this chapter, or who knowingly fails or refuses to comply with any requirements herein specified, or who knowingly interferes with the commission, its agents, designees or employees in the execution or on account of the execution of its or their duties under this chapter or rules promulgated hereunder, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five thousand dollars (\$5,000) or be imprisoned in a county jail for not more than twelve (12) months, or be subject to both such fine and imprisonment.

(g) Nothing in this chapter shall be construed as requiring the commission to report minor violations for prosecution when it believes that the public interest will be best served by suitable warnings or other administrative action.

Approved March 20, 2012.

CHAPTER 81
(S.B. No. 1214)

AN ACT

RELATING TO THE BOARD OF COMMISSIONERS OF THE IDAHO STATE BAR; AMENDING SECTION 3-409, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO ESTABLISH A LICENSE FEE FOR SENIOR MEMBERS.

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

SECTION 1. That Section 3-409, Idaho Code, be, and the same is hereby amended to read as follows:

3-409. LICENSE FEES AND APPROPRIATIONS. (1) Every person practicing, or holding himself out as practicing law within this state, or holding himself out to the public as a person qualified to practice or carry on the calling of a lawyer within this state, except state and United States judges of the courts of record within this state, shall, prior to so doing and no later than February 1 of each year pay to the board of commissioners of the Idaho state bar a license fee as provided in this section.

(2) For the year 2011, license fees shall be in the following amounts:

(a) Active members and house counsel:

(i) For the calendar year of admission to the practice of law in the state of Idaho if admitted prior to July 1: one hundred fifty-five dollars (\$155);

(ii) For the calendar year of admission to the practice of law in the state of Idaho if admitted after July 1: one hundred dollars (\$100);

(iii) Each year for the next three (3) calendar years following the calendar year of admission: two hundred eighty-five dollars (\$285);

- (iv) Each year after the third full year of admission: three hundred eighty dollars (\$380);
- (v) Each year following the calendar year of the lawyer's seventy-second birthday: sixty dollars (\$60.00).
- (b) Affiliate and emeritus members:
 - (i) For each calendar year: one hundred thirty-five dollars (\$135);
 - (ii) Each year following the calendar year of the lawyer's seventy-second birthday: sixty dollars (\$60.00).
- (3) For the year 2012 and each year thereafter, license fees shall be in the following amounts:
 - (a) Active members and house counsel:
 - (i) For the calendar year of admission to the practice of law in the state of Idaho if admitted prior to July 1: one hundred seventy-five dollars (\$175);
 - (ii) For the calendar year of admission to the practice of law in the state of Idaho if admitted after July 1: one hundred fifteen dollars (\$115);
 - (iii) Each year for the next three (3) calendar years following the calendar year of admission: three hundred twenty dollars (\$320);
 - (iv) Each year after the third full year of admission: four hundred twenty-five dollars (\$425);
 - (v) Each year following the calendar year of the lawyer's seventy-second birthday: seventy dollars (\$70.00).
 - (b) Affiliate Inactive and emeritus members:
 - (i) For each calendar year: one hundred fifty dollars (\$150);
 - (ii) Each year following the calendar year of the lawyer's seventy-second birthday: seventy dollars (\$70.00).
 - (c) Senior members: for each calendar year, seventy dollars (\$70.00).
- (4) The moneys thus collected, together with other revenues shall be administered under the direction of the board of commissioners of the Idaho state bar for the purpose of administering the Idaho state bar, encouraging local bar associations, promoting legal education seminars, fostering relations between the public and the bar and for the purpose of establishing and maintaining a clients' assistance fund which shall be administered by the Idaho state bar commissioners under rules approved by the supreme court, provided that the clients' assistance fund shall be funded by assessment of the members of the Idaho state bar not to exceed twenty dollars (\$20.00) per member per year, independent of the license fee. All moneys received and expended by the commissioners of the Idaho state bar shall be audited annually by a certified public accountant.

Approved March 20, 2012.

CHAPTER 82
(S.B. No. 1215, As Amended)

AN ACT

RELATING TO ESCAPE OR RESCUE OF PRISONERS; REPEALING SECTION 18-2503, IDAHO CODE, RELATING TO CARRYING PRISONER THINGS TO AID ESCAPE; REPEALING SECTION 18-2510, IDAHO CODE, RELATING TO ILLICIT CONVEYANCE OF ARTICLES INTO CORRECTIONAL FACILITIES; REPEALING SECTION 18-2511, IDAHO CODE, RELATING TO POSSESSION OF A CONTROLLED SUBSTANCE OR DANGEROUS WEAPON; AMENDING CHAPTER 25, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-2510, IDAHO CODE, TO PROVIDE THAT IT IS UNLAWFUL TO POSSESS, INTRODUCE OR REMOVE CERTAIN ARTICLES INTO OR FROM CORRECTIONAL

FACILITIES, TO PROVIDE PENALTIES AND TO DEFINE TERMS; AMENDING SECTION 19-5506, IDAHO CODE, AS AMENDED BY SECTION 1, CHAPTER 327, LAWS OF 2005, TO PROVIDE CORRECT CODE REFERENCES; AND AMENDING SECTION 32-1410, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Sections 18-2503, 18-2510 and 18-2511, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Chapter 25, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-2510, Idaho Code, and to read as follows:

18-2510. POSSESSION, INTRODUCTION OR REMOVAL OF CERTAIN ARTICLES INTO OR FROM CORRECTIONAL FACILITIES. (1) No person including a prisoner, except as authorized by law or with permission of the facility head, shall knowingly:

- (a) Introduce, or attempt to introduce, contraband into a correctional facility or the grounds of a correctional facility; or
- (b) Convey, or attempt to convey, contraband to a prisoner confined in a correctional facility; or
- (c) Possess, or attempt to possess, contraband within a correctional facility; or
- (d) Receive, obtain or remove, or attempt to receive, obtain or remove, contraband from a correctional facility.

(2) Any person including a prisoner who violates any provision of subsection (1) of this section shall be guilty of a misdemeanor and on conviction thereof shall be punished by imprisonment in the county jail for a period not exceeding one (1) year or by a fine not exceeding one thousand dollars (\$1,000), or by both such imprisonment and fine.

(3) No person including a prisoner, except as authorized by law or with permission of the facility head, shall knowingly:

- (a) Introduce, or attempt to introduce, major contraband into a correctional facility or the grounds of a correctional facility; or
- (b) Convey, or attempt to convey, major contraband to a prisoner confined in a correctional facility; or
- (c) Possess, or attempt to possess, major contraband within a correctional facility; or
- (d) Receive, obtain or remove, or attempt to receive, obtain or remove, major contraband from a correctional facility.

(4) Any person including a prisoner who violates any provision of subsection (3) of this section shall be guilty of a felony and on conviction shall be punished by imprisonment in the state prison for a period not exceeding five (5) years or by a fine not exceeding ten thousand dollars (\$10,000), or by both such imprisonment and fine.

(5) As used in this section:

(a) "Contraband" means any article or thing that a prisoner confined in a correctional facility is prohibited by statute, rule or policy from obtaining or possessing and the use of which could endanger the safety or security of the correctional facility, any person therein or the public.

(b) "Correctional facility" means a correctional facility as defined in section 18-101A, Idaho Code.

(c) "Major contraband" means:

- (i) Any controlled substance as defined in section 37-2701(e), Idaho Code;
- (ii) Any tobacco product in excess of three (3) ounces;

(iii) Any firearm or dangerous weapon including explosives or combustibles or any plans or materials that may be used in the making or manufacturing of such weapons, explosives or devices;

(iv) Any telecommunication equipment or component hardware including, but not limited to, any device carried, worn or stored that is designed or intended to receive or transmit verbal or written messages, access or store data or connect electronically to the internet or any other electronic device that allows communications in any form. Such devices include, but are not limited to, cellular telephones, portable two-way pagers, hand-held radios, global position satellite system equipment, subscriber identity module (SIM) cards, portable memory chips, batteries, chargers, blackberry-type devices or smart phones, personal digital assistants or PDA's and laptop computers. The term also includes any new technology that is developed for similar purposes. Excluded from this definition is any device having communication capabilities that has been approved by the facility head for investigative or institutional security purposes or for conducting other official business;

(v) Any object or instrument intended or reasonably likely to be used in the planning or aiding in an escape or attempted escape from a correctional facility.

(d) "Prisoner" means a prisoner or a juvenile offender as those terms are defined in section 18-101A, Idaho Code.

SECTION 3. That Section 19-5506, Idaho Code, as amended by Section 1, Chapter 327, Laws of 2005, be, and the same is hereby amended to read as follows:

19-5506. SCOPE OF LAW -- OFFENDERS SUBJECT TO SAMPLE COLLECTION -- EARLY COLLECTION OF SAMPLES -- RESTITUTION. (a) Any person, including any juvenile tried as an adult, who is convicted of, or pleads guilty to, any of the following crimes, regardless of the form of judgment or withheld judgment, and regardless of the sentence imposed or disposition rendered, shall be required to provide to the Idaho state police, a DNA sample and a right thumbprint impression:

- (1) Arson (sections 18-802, 18-803, 18-804 and 18-805, Idaho Code);
- (2) Aggravated assault (section 18-905, Idaho Code);
- (3) Aggravated battery (section 18-907, Idaho Code);
- (4) Assault with the intent to commit a serious felony (section 18-909, Idaho Code);
- (5) Battery with the intent to commit a serious felony (section 18-911, Idaho Code);
- (6) Felonious administering of drugs (sections 18-913 and 18-914, Idaho Code);
- (7) Assault or battery upon certain personnel (section 18-915, Idaho Code);
- (8) Removing a firearm from a law enforcement officer (section 18-915A, Idaho Code);
- (9) Propelling bodily fluid or waste (section 18-915B, Idaho Code);
- (10) Domestic violence (section 18-918, Idaho Code, constituting a felony);
- (11) Burglary (sections 18-1401 and 18-1405, Idaho Code), except those convictions in which the defendant entered a retail mercantile establishment and the offense took place when the victim was open to the public for business and the defendant committed a theft and his actions did not constitute grand theft as defined in chapter 24, title 18, Idaho Code;
- (12) Injury to a child (section 18-1501(1), Idaho Code);

- (13) Sexual abuse of a child under the age of sixteen years (section 18-1506, Idaho Code);
- (14) Ritualized abuse of a child (section 18-1506A, Idaho Code);
- (15) Possession of sexually exploitive material for other than a commercial purpose (section 18-1507A, Idaho Code);
- (16) Lewd conduct with minor child under sixteen (section 18-1508, Idaho Code);
- (17) Sexual battery of a minor child sixteen or seventeen years of age (section 18-1508A, Idaho Code);
- (18) Enticing of children (sections 18-1509 and 18-1509A, Idaho Code);
- (19) Sale or barter of a child (section 18-1511, Idaho Code);
- (20) ~~Possession of a controlled substance or dangerous weapon~~ Introduce, convey, possess, receive, obtain or remove major contraband (section 18-25110(3), Idaho Code);
- (21) False reports of explosives (section 18-3313, Idaho Code);
- (22) Unlawful possession of a firearm (section 18-3316, Idaho Code);
- (23) Unlawful discharge of a firearm (section 18-3317, Idaho Code);
- (24) Unlawful possession or use of bombs or destructive devices (sections 18-3319 and 18-3320, Idaho Code);
- (25) Use of weapons of mass destruction (section 18-3322, Idaho Code);
- (26) Murder, any degree (sections 18-4001 and 18-4003, Idaho Code);
- (27) Manslaughter (sections 18-4006(1) or (2) and 18-4007, Idaho Code);
- (28) Administering poison with intent to kill (section 18-4014, Idaho Code);
- (29) Assault with intent to murder (section 18-4015, Idaho Code);
- (30) Indecent exposure (section 18-4116, Idaho Code), constituting a felony;
- (31) Kidnapping, any degree (sections 18-4501 and 18-4502, Idaho Code);
- (32) Forest sabotage (section 18-4631, Idaho Code);
- (33) Mayhem (sections 18-5001 and 18-5002, Idaho Code);
- (34) Cannibalism (section 18-5003, Idaho Code);
- (35) Poisoning food, medicine or wells (section 18-5501, Idaho Code);
- (36) Interstate trafficking in prostitution (section 18-5601, Idaho Code);
- (37) Inducing a minor into prostitution (section 18-5609, Idaho Code);
- (38) Rape (section 18-6101, Idaho Code);
- (39) Male rape (sections 18-6108 and 18-6109, Idaho Code);
- (40) Sexual contact with a prisoner (section 18-6110, Idaho Code);
- (41) Video voyeurism (section 18-6609, Idaho Code);
- (42) Robbery (section 18-6501, Idaho Code);
- (43) Incest (section 18-6602, Idaho Code);
- (44) Crime against nature (section 18-6605, Idaho Code);
- (45) Forcible sexual penetration (section 18-6608, Idaho Code);
- (46) Removal, destruction or burning of electric lines or plants (sections 18-6803, 18-6804 and 18-6805, Idaho Code);
- (47) Malicious injury to property (section 18-7001, Idaho Code), constituting a felony;
- (48) Injuring dams, canals or other structures (section 18-7019, Idaho Code);
- (49) Setting fire to underground workings of mines (sections 18-7024 and 18-7025, Idaho Code);
- (50) Sabotage (section 18-7026, Idaho Code);
- (51) Aircraft hijacking (section 18-7501, Idaho Code);
- (52) Assault with intent to commit aircraft hijacking (section 18-7502, Idaho Code);
- (53) Threats made against airline passengers and other persons, commercial airline companies, or aircraft (section 18-7504, Idaho Code);
- (54) Racketeering (section 18-7804, Idaho Code);
- (55) Malicious harassment (sections 18-7902 and 18-7903, Idaho Code);

- (56) Stalking in the first degree (section 18-7905, Idaho Code);
- (57) Prohibited terrorist activities (section 18-8103, Idaho Code);
- (58) Providing material support to terrorists (section 18-8106, Idaho Code);
- (59) Prohibited employment of adult criminal sex offenders (section 18-8327, Idaho Code);
- (60) Transfer of body fluid which may contain the HIV virus (section 39-608, Idaho Code);
- (61) Failure to register as sex offender (sections 18-8304 and 18-8308, Idaho Code).

(b) In addition to those crimes enumerated in subsection (a) of this section, any person, including any juvenile tried as an adult, who is convicted for an attempt to commit any of the following crimes, regardless of the form of judgment or withheld judgment, and regardless of the sentence imposed or disposition rendered, shall be required to provide to the Idaho state police, a DNA sample and a right thumbprint impression:

- (1) Arson (sections 18-802 through 18-805, Idaho Code);
- (2) Felonious administering of drugs (sections 18-913 and 18-914, Idaho Code);
- (3) Assault or battery upon certain personnel (section 18-915, Idaho Code);
- (4) Removing a firearm from a law enforcement officer (section 18-915A, Idaho Code);
- (5) Propelling bodily fluid or waste (section 18-915B, Idaho Code);
- (6) Sexual abuse of a child under the age of sixteen years (section 18-1506, Idaho Code);
- (7) Ritualized abuse of a child (section 18-1506A, Idaho Code);
- (8) Injury to a child (section 18-1501(1), Idaho Code);
- (9) Lewd conduct with minor child under sixteen (section 18-1508, Idaho Code);
- (10) Sexual battery of a minor child sixteen or seventeen years of age (section 18-1508A, Idaho Code);
- (11) Enticing of children (sections 18-1509 and 18-1509A, Idaho Code);
- (12) Sale or barter of a child (section 18-1511, Idaho Code);
- (13) ~~Possession of a controlled substance or dangerous weapon~~ Introduce, convey, possess, receive, obtain or remove major contraband (section 18-25110(3), Idaho Code);
- (14) False reports of explosives (section 18-3313, Idaho Code);
- (15) Unlawful possession of a firearm (section 18-3316, Idaho Code);
- (16) Unlawful discharge of a firearm (section 18-3317, Idaho Code);
- (17) Unlawful possession or use of bombs or destructive devices (sections 18-3319 and 18-3320, Idaho Code);
- (18) Use of weapons of mass destruction (section 18-3322, Idaho Code);
- (19) Murder, any degree (sections 18-4001 and 18-4003, Idaho Code);
- (20) Administering poison with intent to kill (section 18-4014, Idaho Code);
- (21) Assault with intent to murder (section 18-4015, Idaho Code);
- (22) Indecent exposure (section 18-4116, Idaho Code), constituting a felony;
- (23) Kidnapping, any degree (sections 18-4501 and 18-4502, Idaho Code);
- (24) Forest sabotage (section 18-4631, Idaho Code);
- (25) Mayhem (section 18-5001, Idaho Code);
- (26) Cannibalism (section 18-5003, Idaho Code);
- (27) Poisoning food, medicine or wells (section 18-5501, Idaho Code);
- (28) Interstate trafficking in prostitution (section 18-5601, Idaho Code);
- (29) Inducing a minor into prostitution (section 18-5609, Idaho Code);
- (30) Rape (section 18-6101, Idaho Code);
- (31) Male rape (sections 18-6108 and 18-6109, Idaho Code);

- (32) Sexual contact with a prisoner (section 18-6110, Idaho Code);
- (33) Video voyeurism (section 18-6609, Idaho Code);
- (34) Robbery (section 18-6501, Idaho Code);
- (35) Incest (section 18-6602, Idaho Code);
- (36) Crime against nature (section 18-6605, Idaho Code);
- (37) Forcible sexual penetration (section 18-6608, Idaho Code);
- (38) Removal, destruction or burning of electric lines or plants (sections 18-6803, 18-6804 and 18-6805, Idaho Code);
- (39) Malicious injury to property (section 18-7001, Idaho Code), constituting a felony;
- (40) Injuring dams, canals or other structures (section 18-7019, Idaho Code);
- (41) Setting fire to underground workings of mines (sections 18-7024 and 18-7025, Idaho Code);
- (42) Sabotage (section 18-7026, Idaho Code);
- (43) Aircraft hijacking (section 18-7501, Idaho Code);
- (44) Assault with intent to commit aircraft hijacking (section 18-7502, Idaho Code);
- (45) Threats made against airline passengers and other persons, commercial airline companies, or aircraft (section 18-7504, Idaho Code);
- (46) Malicious harassment (sections 18-7902 and 18-7903, Idaho Code);
- (47) Stalking in the first degree (section 18-7905, Idaho Code);
- (48) Prohibited terrorist activities (section 18-8103, Idaho Code);
- (49) Providing material support to terrorists (section 18-8106, Idaho Code);
- (50) Prohibited employment of adult criminal sex offenders (section 18-8327, Idaho Code);
- (51) Transfer of body fluid which may contain the HIV virus (section 39-608, Idaho Code).

(c) This chapter's requirements for submission to tests and procedures for obtaining a DNA sample and thumbprint impression from the persons described above are mandatory and apply to those persons convicted of such crimes covered in this chapter prior to its effective date, and who, as a result of the offense, are incarcerated in a county jail facility or a penal facility or are under probation or parole supervision after the effective date of this chapter.

(d) The collection of samples and impressions specified in this chapter are required regardless of whether the person previously has supplied a DNA sample to law enforcement agencies in any other jurisdiction.

(e) The requirements of this chapter are mandatory and apply regardless of whether a court advises a person that samples and impressions must be provided to the databank and database as a condition of probation or parole.

(f) Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order any person subject to the provisions of this section to pay restitution to help offset costs incurred by law enforcement agencies for the expense of DNA analysis.

(g) The court may order such person to pay restitution for DNA analysis in an amount not to exceed five hundred dollars (\$500) per DNA sample analysis, or in the aggregate not more than two thousand dollars (\$2,000), regardless of whether:

- (1) The source of the sample is the person, the victim or other persons of interest in the case;
 - (2) Results of the analysis are entered into evidence in the person's criminal case;
 - (3) The DNA sample was previously analyzed for another criminal case;
- or
- (4) Restitution for that DNA sample analysis was ordered in any other criminal case.

(h) Law enforcement agencies entitled to restitution under this section include the Idaho state police, county and city law enforcement agencies, the office of the attorney general, county prosecuting attorneys and city attorneys.

(i) In the case of reimbursement for DNA analysis performed by the Idaho state police, those moneys shall be paid to the Idaho state police and deposited in the law enforcement fund. In the case of reimbursement to the office of the attorney general, those moneys shall be paid to the general fund.

(j) Persons who have been sentenced to death, or life without the possibility of parole, or to any life or indeterminate term are not exempt from the requirements of this chapter.

SECTION 4. That Section 32-1410, Idaho Code, be, and the same is hereby amended to read as follows:

32-1410. DOMESTIC VIOLENCE COURT FEES. (1) Each person who is found guilty of or pleads guilty to any of the following alcohol, substance abuse or domestic violence related offenses shall pay a thirty dollar (\$30.00) fee to be deposited in the statewide drug court, mental health court and family court services fund, as provided in section 1-1625, Idaho Code, to assist in funding the domestic violence courts:

- (a) Section 18-918, Idaho Code (domestic violence);
- (b) Section 18-920, Idaho Code (violation of no contact order);
- (c) Section 18-923, Idaho Code (attempted strangulation);
- (d) Section 18-1502, Idaho Code (beer, wine or other alcohol age violations);
- (e) Section 18-2511(3), Idaho Code (~~possession of a controlled substance or dangerous weapon~~introduce, convey, possess, receive, obtain or remove major contraband, except major contraband as defined in section 18-2510(5)(c)(ii), (iv) and (v), Idaho Code);
- (f) Section 18-4006 3.(b), Idaho Code (vehicular manslaughter in the commission of a violation of section 18-8004 or 18-8006, Idaho Code);
- (g) Section 18-5414, Idaho Code (intentionally making false statements);
- (h) Section 18-8004, Idaho Code (persons under the influence of alcohol, drugs or any other intoxicating substances);
- (i) Section 18-8006, Idaho Code (aggravated driving while under the influence of alcohol, drugs or any other intoxicating substances);
- (j) Section 23-312, Idaho Code (persons under twenty-one and intoxicated persons -- inhibited sales);
- (k) Section 23-505, Idaho Code (transportation of alcoholic beverages);
- (l) Section 23-602, Idaho Code (unlawful manufacture, traffic in, transportation and possession of alcohol beverage);
- (m) Section 23-603, Idaho Code (dispensing to minor);
- (n) Section 23-604, Idaho Code (minors -- purchase, consumption or possession prohibited);
- (o) Section 23-605, Idaho Code (dispensing to drunk);
- (p) Section 23-612, Idaho Code (beer, wine or other alcoholic beverages on public school grounds);
- (q) Section 23-615, Idaho Code (restrictions on sale);
- (r) Section 23-949, Idaho Code (persons not allowed to purchase, possess, serve, dispense or consume beer, wine or other alcoholic liquor);
- (s) Section 23-1013, Idaho Code (restrictions concerning age);
- (t) Section 23-1024, Idaho Code (false representation as being twenty-one or more years of age a misdemeanor);
- (u) Section 23-1333, Idaho Code (open or unsealed containers of wine in motor vehicles on highways prohibited);
- (v) Section 23-1334, Idaho Code (minors -- authorization to deliver);

(w) Criminal violation of any of the provisions of chapter 27, title 37, Idaho Code;

(x) Section 39-6312, Idaho Code (violation of order -- penalties);

(y) Section 67-7034, Idaho Code (persons under the influence of alcohol, drugs or any other intoxicating substances); and

(z) Section 67-7114, Idaho Code (operation under the influence of alcohol, drugs or any other intoxicating substance).

(2) The clerk of the district court shall collect the fees set forth in subsection (1) of this section. The fees shall be paid over to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit into the drug court, mental health court and family court services fund.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 20, 2012.

CHAPTER 83
(S.B. No. 1265)

AN ACT

RELATING TO EXECUTION; AMENDING SECTION 19-2718, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE RETURN OF A DEATH WARRANT; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 19-2718, Idaho Code, be, and the same is hereby amended to read as follows:

19-2718. RETURN OF DEATH WARRANT. After the execution, the executioner ~~must~~ shall make a return upon the death warrant to the district court, showing the time, mode and manner in which it was executed.

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, 2012.

Approved March 20, 2012.

CHAPTER 84
(S.B. No. 1266)

AN ACT

RELATING TO EXECUTION; AMENDING SECTION 19-2715, IDAHO CODE, TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO A STAY OF EXECUTION, TO REVISE PROVISIONS AND TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO CERTAIN WARRANTS, TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO RESETTING EXECUTION DATES AND TO DEFINE A PHRASE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 19-2715, Idaho Code, be, and the same is hereby amended to read as follows:

19-2715. MINISTERIAL ACTIONS RELATING TO STAYS OF EXECUTION, RESET-
TING EXECUTION DATES, AND ORDER FOR EXECUTION OF JUDGMENT OF DEATH. (1)
Hereafter, no further stays of execution shall be granted to persons sen-
tenced to death except that a stay of execution shall be granted during
an appeal taken pursuant to section 19-2719, Idaho Code, and during the
automatic review of judgments imposing the punishment of death provided
by section 19-2827, Idaho Code, by order of a federal court or as part of a
commutation proceeding pursuant to section 20-240, Idaho Code.

(2) Upon remittitur or mandate after a sentence of death has been af-
firmed, the state shall apply for a warrant from the district court in which
the conviction was had, authorizing execution of the judgment of death. Upon
such application, the district court shall set a new execution date not more
than thirty (30) days thereafter.

(3) If a stay of execution is granted pursuant to subsection (1) of this
section and as a result, no execution takes place on the date set by the dis-
trict court, upon termination of the stay, the state shall apply for another
warrant and upon such application, the district court shall set a new execu-
tion date not more than thirty (30) days thereafter.

(4) If for any reason, other than those set forth in subsection (1) of
this section, a judgment of death has not been executed, and it remains in
force, the state shall apply for another warrant. Upon such application,
the district court in which the conviction was had, on the application of the
prosecuting attorney, must order the defendant to be brought before it, or
if he is at large a warrant for his apprehension may be issued. Upon the de-
fendant being brought before the court, the court must may inquire into the
facts, and if no legal reason exists against the execution of the judgment,
must make an order that the warden execute the judgment at a special speci-
fied time. The warden must execute the judgment accordingly.

(45) Action of the district court under this section is ministerial
only. No hearing shall be required for setting a new execution date and the
court shall inquire only into the fact of an existing death sentence and the
absence of a valid stay of execution.

(6) For purposes of this section, the phrase "stay of execution" shall
refer to a temporary postponement of an execution as a result of a court or-
der or an order of the governor postponing the execution while a petition for
commutation is pending.

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, 2012.

Approved March 20, 2012.

CHAPTER 85
(S.B. No. 1292)

AN ACT

RELATING TO EXECUTION; AMENDING CHAPTER 27, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-2716A, IDAHO CODE, TO PROVIDE THAT THE INFLECTION OF THE PUNISHMENT OF DEATH SHALL NOT BE CONSTRUED AS THE PRACTICE OF MEDICINE, TO PROVIDE CERTAIN EXEMPTIONS AND TO PROVIDE THAT CERTAIN PERSONS AND ENTITIES SHALL NOT BE SUBJECT TO CRIMINAL OR CIVIL LIABILITY FOR THE DEATH OF THE CONDEMNED PERSON; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 27, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-2716A, Idaho Code, and to read as follows:

19-2716A. PRACTICE OF MEDICINE AND POSSESSION OF CONTROLLED SUBSTANCES -- EXEMPTION -- EXCEPTIONS TO GOVERNMENTAL LIABILITY. (1) Notwithstanding any other provision of law, infliction of the punishment of death in the manner required by section 19-2716, Idaho Code, shall not be construed as the practice of medicine. The director of the department of correction and all persons authorized by him to participate in an execution, as provided in section 19-2716, Idaho Code, shall be exempt from all laws, rules and regulations governing the practice of medicine.

(2) For the purposes of carrying out the provisions of section 19-2716, Idaho Code, any pharmacy, prescriber, manufacturer, wholesale distributor or other entity authorized by law to possess controlled substances may distribute controlled substances to the director or his designees and shall not be subject to criminal or civil liability for the death of the condemned person.

(3) For the purposes of carrying out the provisions of section 19-2716, Idaho Code, the director and his designees may obtain, possess, store and administer controlled substances and are exempt from all laws, rules and regulations governing pharmacies and controlled substances, notwithstanding any other provision of law. Any employee of the state of Idaho participating in an execution pursuant to section 19-2716, Idaho Code, shall be presumed to be acting within the course and scope of his employment and without malice or criminal intent for purposes of section 6-903, Idaho Code. Any employee, agent or contractor of the state of Idaho participating in an execution pursuant to section 19-2716, Idaho Code, shall not be subject to criminal or civil liability for the death of the condemned person.

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, 2012.

Approved March 20, 2012.

CHAPTER 86
(S.B. No. 1312)

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-426, IDAHO CODE, TO PROVIDE THAT SPECIFIED OPERATING FEES SHALL NOT APPLY TO CERTAIN CONSTRUCTION EQUIPMENT, FORESTRY EQUIPMENT AND LAWN AND GROUNDS EQUIPMENT.

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

SECTION 1. That Section 49-426, Idaho Code, be, and the same is hereby amended to read as follows:

49-426. EXEMPTIONS FROM OPERATING FEES. The provisions of this chapter with respect to operating fees shall not apply to:

(1) Motor vehicles owned or leased by the United States, the state, a city, a county, any department thereof, any political subdivision or municipal corporation of the state, any taxing district of the state, any state registered nonprofit subscription fire protection unit, or any organization, whether incorporated or unincorporated, organized for the operation, maintenance, or management of an irrigation project or irrigation works or system or for the purpose of furnishing water to its members or shareholders, but in other respects shall be applicable.

(2) Farm tractors, implements of husbandry, those manufactured homes which qualify for an exemption under the provisions of section 49-422, Idaho Code, road rollers, wheel mounted tar buckets, portable concrete and/or mortar mixers, wheel mounted compressors, tow dollies, portable toilet trailers, street sweepers, other construction equipment, forestry equipment, lawn and grounds equipment and similar devices as determined by the department which are temporarily operated or moved upon the highways need not be registered under the provisions of this chapter, nor shall implements of husbandry be considered towed units under registration of vehicle combinations as defined in section 49-108(2), Idaho Code. In addition, self-propelled wheelchairs, three-wheeled bicycles, wheelchair conveyances, golf carts, lawn mowers, and scooters operated by persons who by reason of physical disability are otherwise unable to move about as pedestrians shall be exempt from registration requirements under the provisions of this chapter. Motorcycles, motorbikes, utility type vehicles and all-terrain vehicles need not be licensed under the provisions of this chapter or registered pursuant to the provisions of section 67-7122, Idaho Code, if they are being used exclusively in connection with agricultural, horticultural, dairy and livestock growing and feeding operations or used exclusively for snow removal purposes. Travel upon the public highways shall be limited to travel between farm or ranch locations. Motorcycles, motorbikes, utility type vehicles and all-terrain vehicles used for this purpose shall meet the emblem requirements of section 49-619, Idaho Code.

(3) Any political subdivision of the state of Idaho may, but only after sufficient public notice is given and a public hearing held, adopt local ordinances or resolutions designating highways or sections of highways under its jurisdiction which are closed to all-terrain vehicles, utility type vehicles, specialty off-highway vehicles and motorbikes licensed pursuant to this chapter and registered pursuant to section 67-7122, Idaho Code. The operation of licensed and registered all-terrain vehicles, utility type vehicles and motorbikes and those vehicles exempt from licensing and registration pursuant to subsection (2) of this section shall not be permitted on controlled access highways. The requirements of title 18 and chapters 2, 3, 6, 8, 12, 13 and 14, title 49, Idaho Code, shall apply to the operation of any all-terrain vehicle, utility type vehicle or motorbike upon highways.

Costs related to the posting of signs on highways or sections of highways that are closed to such vehicles, indicating the ordinance, are eligible for reimbursement through the motorbike recreation account created in section 67-7126, Idaho Code.

(4) The Idaho transportation board may designate sections of state highways over which all-terrain vehicles, utility type vehicles, specialty off-highway vehicles and motorbikes may cross. The requirements of title 18, and chapters 2, 3, 6, 8, 12, 13 and 14, title 49, Idaho Code, shall apply to the operation of all-terrain vehicles, utility type vehicles, specialty off-highway vehicles and motorbikes when using designated crossings on state highways.

(5) All-terrain vehicles, utility type vehicles, specialty off-highway vehicles and motorbikes may be used on highways located on state lands or federal lands which are not part of the highway system of the state of Idaho, provided the registration requirements of section 67-7122, Idaho Code, are met.

Approved March 20, 2012.

CHAPTER 87
(S.B. No. 1225)

AN ACT

RELATING TO IDAHO REAL ESTATE LICENSE LAW; AMENDING SECTION 54-2014, IDAHO CODE, TO INCREASE THE MAXIMUM FEE AMOUNT FOR A LICENSE EXAM.

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

SECTION 1. That Section 54-2014, Idaho Code, be, and the same is hereby amended to read as follows:

54-2014. LICENSE EXAMS. (1) Exam required. Unless a written certificate of waiver is obtained from the commission and submitted with the application, an individual applicant seeking a primary Idaho real estate license shall take and pass the national portion and the Idaho state portion of an approved exam administered by or through the commission. The license applicant shall take and pass the required portion or portions of the exam within no more than twelve (12) months immediately preceding the date of the license application.

(2) Registration for the exam and exam fee. An individual shall register for the exam in a manner authorized by the commission and shall pay at the time of registration the nonrefundable exam fee in an amount established by motion of the commission, not to exceed one hundred fifty dollars (\$1050).

(3) Waiver of national portion of exam. An individual who has obtained a written certificate from the commission waiving the national portion of the exam shall be required to take and pass the Idaho state portion of the exam only. The certificate of waiver and exam fee shall be submitted with the application for exam.

(4) Failure to appear for the exam or to pass the exam. An individual who fails to appear for the exam or to pass the exam may register to take another exam. The individual must register and submit a new exam fee.

(5) The commission shall establish, by motion, fees for the exam which, in its discretion, are sufficient to raise the revenue required to administer the exam. Fees so established shall remain effective from year to year and may be altered only upon motion by the commission.

Approved March 20, 2012.

CHAPTER 88
(S.B. No. 1232)

AN ACT

RELATING TO THE UNIFORM PRUDENT INVESTOR ACT; AMENDING SECTION 68-514, IDAHO CODE, TO PROVIDE THAT THE PROVISIONS OF THE UNIFORM PRUDENT INVESTOR ACT SHALL APPLY TO CERTAIN ENTITIES AND PERSONS TO ACT AS A CONSERVATOR UNDER THE LAWS OF THE STATE OF IDAHO AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 68-514, Idaho Code, be, and the same is hereby amended to read as follows:

68-514. GUARDIANS AND CONSERVATORS. The provisions of this act shall apply to and govern any bank, trust company, or individual authorized and duly appointed, by a court of competent jurisdiction, to act as a guardian or conservator under the laws of the state of Idaho.

Approved March 20, 2012.

CHAPTER 89
(S.B. No. 1236)

AN ACT

RELATING TO COMMERCIAL FEED; AMENDING SECTION 25-2703, IDAHO CODE, TO REVISE DEFINITIONS AND TO REMOVE A DEFINITION FOR TONNAGE-ONLY DISTRIBUTOR; AMENDING SECTION 25-2704, IDAHO CODE, TO REVISE PROVISIONS RELATING TO REGISTRATION, TO PROVIDE FOR THE REVIEW OF LABELS, TO REMOVE PROVISIONS RELATING TO IDAHO REGISTRANTS AND IDAHO TONNAGE-ONLY DISTRIBUTORS AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 25-2705, IDAHO CODE, TO PROVIDE FOR LABELS FOR PRODUCT SOLD IN BULK; REPEALING SECTION 25-2706, IDAHO CODE, RELATING TO INSPECTION FEES AND REPORTS; AMENDING SECTION 25-2707, IDAHO CODE, TO PROVIDE CORRECT CITATIONS TO THE FEDERAL FOOD, DRUG AND COSMETIC ACT, AS AMENDED, AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 25-2709, IDAHO CODE, TO PROVIDE FOR SEPARATE NOTICES FOR EACH INSPECTION, TO PROVIDE THAT NOTICE SHALL NOT BE REQUIRED FOR EACH ENTRY MADE DURING THE PERIOD COVERED BY THE INSPECTION, TO PROVIDE FOR RECEIPTS RELATING TO ANY SAMPLE OR SAMPLES TAKEN IN THE COURSE OF AN INSPECTION AND TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 25-2703, Idaho Code, be, and the same is hereby amended to read as follows:

25-2703. DEFINITIONS. When used in this chapter:

(1) The term "animal remedy" means any drug, combination of drugs, pharmaceutical, proprietary medicine, veterinary biologics, or combination of drugs and other ingredients, other than for food or cosmetic purposes, which is prepared or compounded for any animal use except man, or materials other than food intended to affect the structure or any function of the body of animals other than man. This term does not include medicated feeds.

(2) The term "brand name" means any word, name, symbol or device, or any combination thereof, identifying the commercial feed of a distributor or registrant and distinguishing it from that of others.

(3) The term "commercial feed" means all materials or combination of materials which are distributed or intended for distribution for use as feed, or for mixing in feed for poultry and animals other than man except:

(a) Unmixed whole seeds and physically altered entire unmixed seeds, when such whole or physically altered seeds are not chemically changed or are not adulterated within the meaning of section 25-2707, Idaho Code, or misbranded within the meaning of section 25-2708, Idaho Code.

(b) Seeds mixed and planted as such mixture, grown and harvested as one (1) crop and processed as one (1) mixture when not adulterated within the meaning of section 25-2707, Idaho Code, or misbranded within the meaning of section 25-2708, Idaho Code.

(c) All hay, except commercially dehydrated legumes and grasses and when not adulterated within the meaning of section 25-2707, Idaho Code, or misbranded within the meaning of section 25-2708, Idaho Code.

(d) Whole or ground straw, stover, silage, cobs, husks, hulls, wet or pressed beet pulp, pea screenings and beet discard molasses when not mixed with other materials and when not adulterated within the meaning of section 25-2707, Idaho Code, or misbranded within the meaning of section 25-2708, Idaho Code.

(e) Live, whole or unprocessed animals when not adulterated within the meaning of section 25-2707, Idaho Code, or misbranded within the meaning of section 25-2708, Idaho Code.

(f) ~~Animal remedies except when used as a feed additive~~ when not adulterated within the meaning of section 25-2707, Idaho Code, or misbranded within the meaning of section 25-2708, Idaho Code.

(g) Individual mineral substances when not mixed with another material and when not adulterated within the meaning of section 25-2707, Idaho Code, or misbranded within the meaning of section 25-2708, Idaho Code.

(h) ~~High moisture food processing waste containing more than fifty percent (50%) moisture content~~ Certain processing byproducts or production waste, identified by the director in rule, without further processing, received by the end user directly from the food processor when not adulterated within the meaning of section 25-2707, Idaho Code, or misbranded within the meaning of section 25-2708, Idaho Code.

The director, by rule, may exempt from this definition, or from specific provisions of this chapter, commodities, and individual chemical compounds or substances when such commodities, compounds or substances are not intermixed with other materials, and are not adulterated according to the provisions of section 25-2707, Idaho Code, or misbranded within the meaning of section 25-2708, Idaho Code.

(4) The term "contract feeder" means a person who as an independent contractor, feeds commercial feed to animals pursuant to a contract whereby such commercial feed is supplied, furnished, or otherwise provided to such person and whereby such person's remuneration is determined, all or in part, by feed consumption, mortality, profits, or amount or quality of product.

(5) The term "customer-formula feed" means commercial feed which consists of a mixture of commercial feeds and/or feed ingredients each batch of which is manufactured according to the specific instructions of the final purchaser, end user or consumer. Customer-formula feed does not include commercial feeds which are used as ingredients in other commercial feed or are offered for retail or further distribution.

(6) The term "department" means the Idaho department of agriculture.

(7) The term "director" means the director of the Idaho department of agriculture or the director's authorized agent.

(8) The term "distribute" means to offer for sale, sell, exchange or barter commercial feeds in or into this state; or to supply, furnish, or otherwise provide commercial feed to a contract feeder.

(9) The term "distributor" means any person who distributes.

(10) The term "drug" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and articles other than feed intended to affect the structure or any function of the animal body.

(11) The term "feed ingredient" means each of the constituent materials making up a commercial feed.

(12) The term "label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed.

(13) The term "labeling" means all labels and other written, printed, or graphic matter upon a commercial feed or any of its containers or wrapper, or accompanying such commercial feed. This includes statements and promotion on company websites or other internet based customer interfaces.

(14) The term "manufacture" means to grind, mix or blend, or further process a commercial feed for distribution.

(15) The term "medicated feed" means any feed which contains drug ingredients intended or presented for the cure, mitigation, treatment, or prevention of disease in animals other than man or which contains drug ingredients intended to affect the structure or any function of the body of animals other than man.

(16) The term "mineral" means a naturally occurring, homogeneous inorganic solid substance, essential to the nutrition of animals, having a definite chemical composition and characteristic crystalline structure, color and hardness.

(17) The term "mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.

(18) The term "official sample" means a sample of commercial feed taken by the director or an authorized agent in accordance with the provisions of section 25-2709, Idaho Code.

(19) The term "percent" or "percentage" means percentage by weight.

(20) The term "person" includes an individual, partnership, corporation, firm, association and agent.

(21) The term "pet" means any domesticated animal normally maintained in or near the household(s) of the owner(s) thereof.

(22) The term "pet food" means any commercial feed prepared and distributed for consumption by dogs and cats.

(23) The term "pharmaceutical" means any product prescribed for the treatment or prevention of disease for veterinary purposes, including vaccines, synthetic and natural hormones, anesthetics, stimulants or depressants.

(24) The term "product name" means the name of the commercial feed which identifies it as to kind, class or specific use.

(25) The term "purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or reissue, gift or any other voluntary transaction creating an interest in property.

(26) The term "purchaser" means a person who takes by purchase.

(27) The term "registrant" means that person, manufacturer, guarantor, or distributor who registers a product or products according to the provisions of section 25-2704, Idaho Code.

(28) The term "sell" or "sale" includes exchange.

(29) The term "specialty pet" means any domesticated animal pet normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes and turtles.

(30) The term "specialty pet food" means any commercial feed prepared and distributed for consumption by specialty pets.

(31) The term "ton" means a net weight of two thousand (2,000) pounds avoirdupois.

~~(32) The term "tonnage-only distributor" means any person who assumes the liability for inspection fees and reports as provided for in subsection (1) of section 25-2706, Idaho Code. A tonnage-only distributor must file a completed application with the department on forms provided by the director. A tonnage-only distributor is subject to the provisions of section 25-2706, Idaho Code.~~

~~(33) The term "veterinary biologics" means any biologic product used for veterinary purposes, including, but not limited to, antibiotics, antiparasiticides, growth promotants and bioculture products.~~

~~(34) Words importing the singular number may extend and be applied to several persons or things and words importing the plural may include the singular.~~

SECTION 2. That Section 25-2704, Idaho Code, be, and the same is hereby amended to read as follows:

25-2704. REGISTRATION. (1) Each commercial feed except customer-formula feed shall be registered annually by the person who manufactures or distributes feed into or within the state of Idaho before being offered for sale, sold, or otherwise distributed in or into this state. It is the responsibility of each manufacturer or distributor of a commercial feed to ensure that those commercial feeds being distributed into or within the state of Idaho are properly registered by the manufacturer or distributor prior to distribution.

(2) The application for registration shall be submitted to the director on forms furnished by the department of agriculture, and shall be accompanied by a nonrefundable fee of five dollars (\$5.00), except that those feeds sold in packages of ten (10) pounds or less shall be registered for a nonrefundable fee of twenty-five dollars (\$25.00), and established by the director in rule not to exceed one hundred dollars (\$100).

(3) The application for registration shall also be accompanied by a label describing the product, unless such label has not been altered since the last registration of the product. A label shall continue in effect unless it is canceled or changed by the registrant or unless canceled by the department of agriculture pursuant to subsection (47) of this section. The department may review a label at any time during the registration year, regardless of registration status, for compliance with this act. Should the department find that a label is not in compliance with this act after registration has been issued, the department may cancel registration of the product. Provided however, that no registration shall be canceled until the registrant shall have been given opportunity to amend the label within thirty (30) days of receipt of notice of intent to refuse or cancel registration in order to comply with the requirements of this chapter, or be given notice and opportunity for a hearing pursuant to the provisions of chapter 52, title 67, Idaho Code.

(4) All fees paid to the department of agriculture provided for in this section shall be paid to the state treasury, and placed in the commercial feed and fertilizer fund. Upon approval by the director a copy of the registration shall be furnished to the applicant. All registrations expire on September 30 of each year. If an application for registration renewal provided for in this section is not postmarked before November 1 of any one (1) year, a penalty of ten dollars (\$10.00) per product shall be assessed and added to the original fee and shall be paid by the applicant before the renewal registration is issued.

(5) A distributor shall not be required to register any commercial feed which is already registered under the provisions of this chapter by another person provided the commercial feed is distributed in its original package or container or, if the commercial feed is distributed in bulk,

the integrity of the original product is maintained and labeled with the registrant's original label or a copy of the registrant's original label.

(36) Changes in the guarantee of either chemical or ingredient composition of a commercial feed may be permitted provided satisfactory evidence is submitted showing that such changes would not result in a lowering of the feeding value of the product for the purpose for which designed.

(47) The director is empowered to refuse registration of any application not in compliance with all provisions of this chapter and to cancel any registration when it is subsequently found to be in violation of any provision of this chapter or when the director has satisfactory evidence that the registrant has used fraudulent or deceptive practices in attempted evasion of the provisions of this chapter or rules thereunder.

Provided, however, that no registration shall be refused or canceled until the registrant shall have been given opportunity to amend their application within thirty (30) days of receipt of notice of intent to refuse or cancel registration in order to comply with the requirements of this chapter or be given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act, chapter 52, title 67, Idaho Code.

~~(5) Any person distributing commercial feed into or within Idaho to an Idaho registrant or an Idaho tonnage-only distributor must be an Idaho registrant or an Idaho tonnage-only distributor.~~

(68) If a product is found being offered for sale, sold, or otherwise distributed into or within Idaho prior to registration, the department is authorized to assess a penalty of twenty-five dollars (\$25.00) on each product in addition to the annual registration fee as provided in this section.

SECTION 3. That Section 25-2705, Idaho Code, be, and the same is hereby amended to read as follows:

25-2705. LABELING. A commercial feed shall be labeled as follows:

(1) A commercial feed, except a customer-formula feed, offered for sale or sold or otherwise distributed in this state in bags, barrels, or other containers shall have placed on or affixed to the container in written or printed form, a label bearing the following information:

(a) A quantity statement specifying the net weight (may be stated parenthetically in metric units in addition to the required avoirdupois), or net volume (liquid or dry). If appropriate, unit count may be used.

(b) The product name and the brand name, if any, under which the commercial feed is distributed.

(c) The guaranteed analysis stated in such terms as the director, by rule, determines is required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods, such as the methods published by the association of official analytical chemists.

(d) The common or usual name of each ingredient used in the manufacture of the commercial feed: provided that the director, by rule, may permit the use of a collective term for a group of ingredients which perform a similar function, or the director may exempt such commercial feeds, or any group thereof, from this requirement of an ingredient statement if the director finds that such statement is not required in the interest of consumers.

(e) The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed.

(f) Adequate directions for use for all commercial feeds containing drugs and for such other feeds as the director may require, by rule, as necessary for their safe and effective use.

(g) Such precautionary statements as the director, by rule, determines are necessary for the safe and effective use of the commercial feed.

(2) Product sold in bulk may include the label with shipment of the commercial feed, to be provided to the consumer upon delivery.

(3) A customer-formula feed shall be accompanied by a label invoice, delivery slip, or other shipping document bearing the following information:

- (a) Name and address of the manufacturer.
- (b) Name and address of the purchaser.
- (c) Date of delivery.
- (d) The product name and net weight (may be stated parenthetically in metric units in addition to the required avoirdupois), net volume (liquid or dry) of each commercial feed and other ingredients used in the mixture.
- (e) Adequate directions for use for all customer-formula feeds containing drugs and for such other feeds as the director may require, by rule, as necessary for their safe and effective use.
- (f) The directions for use and precautionary statements as required by rule.
- (g) If a drug-containing product is used:
 - (i) The purpose of the medication (claim statement).
 - (ii) The established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with rule.

SECTION 4. That Section 25-2706, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 25-2707, Idaho Code, be, and the same is hereby amended to read as follows:

25-2707. ADULTERATION. No person shall distribute an adulterated commercial feed. A commercial feed shall be deemed to be adulterated:

(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health, but in case the substance is not an added substance, such commercial feed shall not be considered adulterated under the provisions of this subsection if the quantity of such substance in such commercial feed does not ordinarily render it injurious to health.

(2) If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of section 406 of the federal food, drug, and cosmetic act, as amended, and regulations adopted thereunder other than one which is:

- (a) A pesticide chemical in or on a raw agricultural commodity; or
- (b) A food additive.

(3) If it is, or it bears or contains any food additive which is unsafe within the meaning of section 409 of the federal food, drug, and cosmetic act, as amended, and regulations adopted thereunder.

(4) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 408(a) of the federal food, drug and cosmetic act, as amended, and regulations adopted thereunder; provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under section 408 of the federal food, drug, and cosmetic act, as amended, and regulations adopted thereunder, and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed

will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of section 408 (a) of the federal food, drug, and cosmetic act, as amended, and regulations adopted thereunder.

(5) If it is, or it bears or contains any color additive which is unsafe within the meaning of section 721 of the federal food, drug and cosmetic act, as amended, and regulations adopted thereunder.

(6) If it is, or it bears or contains any new animal drug which is unsafe within the meaning of section 512 of the federal food, drug and cosmetic act, as amended, and regulations adopted thereunder.

(7) If any valuable constituent has been in whole or part omitted or abstracted therefrom or any less valuable substance substituted therefor.

(8) If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.

(9) If it contains added hulls, screenings, straw, cobs, or other high fiber material unless the name of each such material is clearly and prominently stated on the label.

(10) If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing or packaging do not conform to current good manufacturing practice regulations promulgated by the director to assure that the drug meets the requirements of this chapter as to safety. In promulgating such regulations, the director shall adopt the current good manufacturing practice regulations for type A medicated articles and type B and type C medicated feeds established under authority of the federal food, drug, and cosmetic act, as amended, unless the director determines that they are not appropriate to the conditions which exist in this state.

(11) If it contains viable noxious weed seeds or other weed seeds in amounts exceeding the limits which the director shall establish by rule.

(12) If it consists, in whole or in part, of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for feed.

(13) If it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

(14) If it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter which is unsafe within the meaning of section 4092 (a) (1) or (2) of the federal food, drug, and cosmetic act, as amended, and regulations adopted thereunder.

(15) If its container is composed, in whole or in part, of any poisonous or deleterious substances which may render the contents injurious to health.

(16) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulation or exemption in effect pursuant to section 4092 of the federal food, drug, and cosmetic act, as amended, and regulations adopted thereunder.

SECTION 6. That Section 25-2709, Idaho Code, be, and the same is hereby amended to read as follows:

25-2709. INSPECTION, SAMPLING, ANALYSIS. (1) For the purpose of enforcement of this chapter, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the director upon presenting appropriate credentials, to the owner, operator, or agent in charge, are authorized:

(a) To enter, during normal business hours, any factory, warehouse, or establishment within the state in which commercial feeds are manufactured, processed, packed, or held for distribution, or to enter any vehicle being used to transport or hold such feeds, and

(b) To inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment or ve-

hicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein.

The inspection may include the verification of only such records, and production and control procedures as may be necessary to determine compliance with the good manufacturing practice regulations established under the provisions of this chapter. Each inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.

(2) A separate notice shall be given for each inspection, but a notice shall not be required for each entry made during the period covered by the inspection.

(3) If the office or employee making inspection of a factory, warehouse or other establishment has obtained a sample or samples in the course of the inspection, upon completion of the inspection and prior to leaving the premises, the inspector/sampler shall give to the owner, operator or agent in charge a receipt describing any sample or samples obtained.

(4) Sampling and analysis shall be conducted in accordance with methods published by the association of official analytical chemists, or in accordance with other generally recognized methods.

(35) The director, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the official sample as defined in subsection (18) of section 25-2703, Idaho Code, and obtained and analyzed as provided for in this section.

(46) If the owner of any factory, warehouse, or establishment described in subsection (1) of this section, or authorized agent, refuses to admit the director or an authorized agent to inspect in accordance with subsections (1) and (57) of this section, the director is authorized to obtain from any state court of competent jurisdiction a warrant directing such owner or agent to submit the premises described in such warrant to inspection.

(57) For the enforcement of this chapter, the director or a duly authorized agent is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine and make copies of records relating to distribution of commercial feeds.

(68) The results of all analyses of official samples shall be forwarded by the director to the registrant and to the purchaser. When the inspection and analysis of an official sample indicate a commercial feed has been adulterated or misbranded and upon request by the registrant or purchaser within thirty (30) days following the receipt of the analysis the director shall furnish to the registrant a portion of the sample concerned.

Approved March 20, 2012.

CHAPTER 90
(S.B. No. 1268)

AN ACT

RELATING TO INSURANCE DEDUCTIBLES; AMENDING SECTION 41-2511, IDAHO CODE, TO PROVIDE FOR AN INCREASE IN PERMISSIVE DEDUCTIBLES FOR COMPREHENSIVE COVERAGE AND COLLISION OR PHYSICAL DAMAGE COVERAGE AS A CONDITION TO RENEWAL.

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

SECTION 1. That Section 41-2511, Idaho Code, be, and the same is hereby amended to read as follows:

41-2511. DEDUCTIBLE -- PERMISSIVE. Nothing in sections 41-2506 through 41-2512, Idaho Code, shall prohibit, or be construed to prohibit, an insurer from requiring a provision for a reasonable deductible not exceeding ~~one~~ two hundred fifty dollars (~~\$150~~250) in amount as to comprehensive coverage and not exceeding ~~three~~ five hundred dollars (~~\$300~~500) in amount as to collision or physical damage coverages of the policy, as a condition to renewal of an automobile insurance policy.

Approved March 20, 2012.

CHAPTER 91
(S.B. No. 1277, As Amended)

AN ACT

RELATING TO DIETITIANS; AMENDING SECTION 54-3504, IDAHO CODE, TO REVISE THE DIETETIC LICENSURE BOARD MEMBER COMPENSATION.

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

SECTION 1. That Section 54-3504, Idaho Code, be, and the same is hereby amended to read as follows:

54-3504. DIETETIC LICENSURE BOARD CREATED -- APPOINTMENT -- TERMS. (1) A dietetic licensure board is hereby created and the members thereof shall be appointed by the Idaho state board of medicine within sixty (60) days following the effective date of this chapter.

(2) The dietetic licensure board shall consist of four (4) members, three (3) of whom shall be dietitians and one (1) member shall be a member of the public with an interest in the rights of the consumer of health care services.

(3) In making appointments to the dietetic licensure board, the board shall give consideration to recommendations made by the Idaho dietetic association, other professional organizations and dietitians and physicians.

(4) All members of the dietetic licensure board shall be current residents of the state of Idaho and have been residents of the state of Idaho for a minimum of three (3) years immediately preceding appointment.

(5) The initial three (3) dietitian members of the dietetic licensure board shall be persons registered by the commission on dietetic registration, American dietetic association, who are eligible to become licensed pursuant to this chapter, and who shall, within such time, as may be established by the board, become licensed pursuant to this chapter.

(6) The initial dietetic licensure board shall be appointed for staggered terms, the longer of which will not exceed four (4) years. After the initial appointments, all terms shall be four (4) years, and a member may be reappointed. In the event of death, resignation, or removal of any member before the expiration of the term to which appointed, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(7) The board may, upon recommendation of the dietetic licensure board, or upon its own motion, remove any member of the dietetic licensure board, for cause, prior to the expiration of the member's term.

(8) The dietetic licensure board shall, within thirty (30) days after its appointment, and at least annually thereafter, hold a meeting and elect a chairperson. The licensure board may hold additional meetings on the call of the chairperson or at the written request of any two (2) members of the licensure board. The licensure board may appoint such committees as it considers necessary to carry out its duties. A majority of the members of the licensure board shall constitute a quorum.

(9) Each member of the licensure board shall be compensated as provided in section 59-509(hn), Idaho Code.

Approved March 20, 2012.

CHAPTER 92
(S.B. No. 1278)

AN ACT

RELATING TO ATHLETIC TRAINERS; AMENDING SECTION 54-3914, IDAHO CODE, TO REVISE THE COMPENSATION FOR THE MEMBERS OF THE IDAHO BOARD OF ATHLETIC TRAINERS.

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

SECTION 1. That Section 54-3914, Idaho Code, be, and the same is hereby amended to read as follows:

54-3914. COMPENSATION. The members of the board of athletic trainers shall be compensated as provided in section 59-509(ek), Idaho Code.

Approved March 20, 2012.

CHAPTER 93
(S.B. No. 1301)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-512, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE SUPERVISION AND REGULATION OF CERTAIN EXTRACURRICULAR ACTIVITIES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-512, Idaho Code, be, and the same is hereby amended to read as follows:

33-512. GOVERNANCE OF SCHOOLS. The board of trustees of each school district shall have the following powers and duties:

(1) To fix the days of the year and the hours of the day when schools shall be in session. However:

(a) Each school district shall annually adopt and implement a school calendar which provides its students at each grade level with the following minimum number of instructional hours:

Grades	Hours
9-12	990
4-8	900
1-3	810
K	450

(b) School assemblies, testing and other instructionally related activities involving students directly may be included in the required instructional hours.

(c) When approved by a local school board, annual instructional hour requirements stated in paragraph (a) may be reduced as follows:

(i) Up to a total of twenty-two (22) hours to accommodate staff development activities conducted on such days as the local school board deems appropriate.

(ii) Up to a total of eleven (11) hours of emergency school closures due to adverse weather conditions and facility failures.

However, transportation to and from school, passing times between classes, recess and lunch periods shall not be included.

(d) Student and staff activities related to the opening and closing of the school year, grade reporting, program planning, staff meetings, and other classroom and building management activities shall not be counted as instructional time or in the reductions provided in paragraph (c) (i) of this section.

(e) For multiple shift programs, this rule applies to each shift (i.e., each student must have access to the minimum annual required hours of instructions).

(f) The instructional time requirement for grade 12 students may be reduced by action of a local school board for an amount of time not to exceed eleven (11) hours of instructional time.

(g) The state superintendent of public instruction may grant an exemption from the provisions of this section for an individual building within a district, when the closure of that building, for unforeseen circumstances, does not affect the attendance of other buildings within the district.

(2) To adopt and carry on, and provide for the financing of, a total educational program for the district. Such programs in other than elementary school districts may include education programs for out-of-school youth and adults; and such districts may provide classes in kindergarten;

(3) To provide, or require pupils to be provided with, suitable textbooks and supplies, and for advice on textbook selections may appoint a ~~textbook~~ curricular materials adoption committee as provided in section 33-512A, Idaho Code;

(4) To protect the morals and health of the pupils;

(5) To exclude from school, children not of school age;

(6) To prescribe rules for the disciplining of unruly or insubordinate pupils, including rules on student harassment, intimidation and bullying, such rules to be included in a district discipline code adopted by the board of trustees and a summarized version thereof to be provided in writing at the beginning of each school year to the teachers and students in the district in a manner consistent with the student's age, grade and level of academic achievement;

(7) To exclude from school, pupils with contagious or infectious diseases who are diagnosed or suspected as having a contagious or infectious disease or those who are not immune and have been exposed to a contagious or infectious disease; and to close school on order of the state board of health and welfare or local health authorities;

(8) To equip and maintain a suitable library or libraries in the school or schools and to exclude therefrom, and from the schools, all books, tracts, papers, and catechisms of sectarian nature;

(9) To determine school holidays. Any listing of school holidays shall include not less than the following: New Year's Day, Memorial Day, Independence Day, Thanksgiving Day, and Christmas Day. Other days listed in section 73-108, Idaho Code, if the same shall fall on a school day, shall be observed with appropriate ceremonies; and any days the state board of education may designate, following the proclamation by the governor, shall be school holidays;

(10) To erect and maintain on each schoolhouse or school grounds a suitable flagstaff or flagpole, and display thereon the flag of the United States of America on all days, except during inclement weather, when the school is in session; and for each Veterans Day, each school in session shall conduct

and observe an appropriate program of at least one (1) class period remembering and honoring American veterans;

(11) To prohibit entrance to each schoolhouse or school grounds, to prohibit loitering in schoolhouses or on school grounds and to provide for the removal from each schoolhouse or school grounds of any individual or individuals who disrupt the educational processes or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils. A person who disrupts the educational process or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils or who loiters in schoolhouses or on school grounds, is guilty of a misdemeanor-;

(12) To supervise and regulate, including by contract with established entities, those extracurricular activities which are by definition outside of or in addition to the regular academic courses or curriculum of a public school, and which extracurricular activities shall not be considered to be a property, liberty or contract right of any student, and such extracurricular activities shall not be deemed a necessary element of a public school education, but shall be considered to be a privilege. For the purposes of extracurricular activities, any secondary school located in this state that is accredited by an organization approved through a process defined by the state department of education shall be able to fully participate in all extracurricular activities described in and governed by the provisions of this subsection;

(13) To govern the school district in compliance with state law and rules of the state board of education-;

(14) To submit to the superintendent of public instruction not later than July 1 of each year documentation which meets the reporting requirements of the federal gun-free schools act of 1994 as contained within the federal improving America's schools act of 1994-;

(15) To require that all certificated and noncertificated employees hired on or after July 1, 2008, and other individuals who are required by the provisions of section 33-130, Idaho Code, to undergo a criminal history check shall submit a completed ten (10) finger fingerprint card or scan to the department of education no later than five (5) days following the first day of employment or unsupervised contact with students in a K-12 setting, whichever is sooner. Such employees and other individuals shall pay the cost of the criminal history check. If the criminal history check shows that the employee has been convicted of a felony crime enumerated in section 33-1208, Idaho Code, it shall be grounds for immediate termination, dismissal or other personnel action of the district, except that it shall be the right of the school district to evaluate whether an individual convicted of one (1) of these crimes and having been incarcerated for that crime shall be hired. Provided however, that any individual convicted of any felony offense listed in section 33-1208 2., Idaho Code, shall not be hired. For the purposes of criminal history checks, a substitute teacher is any individual who temporarily replaces a certificated classroom educator and is paid a substitute teacher wage for one (1) day or more during a school year. A substitute teacher who has undergone a criminal history check at the request of one (1) district in which he has been employed as a substitute shall not be required to undergo an additional criminal history check at the request of any other district in which he is employed as a substitute if the teacher has obtained a criminal history check within the previous five (5) years. If the district next employing the substitute still elects to require another criminal history check within the five (5) year period, that district shall pay the cost of the criminal history check or reimburse the substitute teacher for such cost. To remain on the statewide substitute teacher list maintained by the state department of education, the substitute teacher shall undergo a criminal history check every five (5) years-;

(16) To maintain a safe environment for students by developing a system that cross-checks all contractors or other persons who have irregular contact with students against the statewide sex offender register.;

(17) To provide support for teachers in their first two (2) years in the profession in the areas of: administrative and supervisory support, mentoring, peer assistance and professional development.

Approved March 20, 2012.

CHAPTER 94
(S.B. No. 1324)

AN ACT

RELATING TO ATTORNEY'S FEES IN CIVIL ACTIONS; AMENDING SECTION 12-120, IDAHO CODE, TO PROVIDE THAT THERE SHALL BE TAXED AND ALLOWED TO THE PREVAILING PARTY A REASONABLE AMOUNT FIXED BY THE COURT AS ATTORNEY'S FEES IN CERTAIN ACTIONS WHERE THE AMOUNT PLEADED IS THIRTY-FIVE THOUSAND DOLLARS OR LESS.

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

SECTION 1. That Section 12-120, Idaho Code, be, and the same is hereby amended to read as follows:

12-120. ATTORNEY'S FEES IN CIVIL ACTIONS. (1) Except as provided in subsections (3) and (4) of this section, in any action where the amount pleaded is ~~twenty-five~~ thirty-five thousand dollars (\$~~25~~35,000) or less, there shall be taxed and allowed to the prevailing party, as part of the costs of the action, a reasonable amount to be fixed by the court as attorney's fees. For the plaintiff to be awarded attorney's fees, for the prosecution of the action, written demand for the payment of such claim must have been made on the defendant not less than ten (10) days before the commencement of the action; provided, that no attorney's fees shall be allowed to the plaintiff if the court finds that the defendant tendered to the plaintiff, prior to the commencement of the action, an amount at least equal to ninety-five percent (95%) of the amount awarded to the plaintiff.

(2) The provisions of subsection (1) of this section shall also apply to any counterclaims, cross-claims or third party claims which may be filed after the initiation of the original action. Except that a ten (10) day written demand letter shall not be required in the case of a counterclaim.

(3) In any civil action to recover on an open account, account stated, note, bill, negotiable instrument, guaranty, or contract relating to the purchase or sale of goods, wares, merchandise, or services and in any commercial transaction unless otherwise provided by law, the prevailing party shall be allowed a reasonable attorney's fee to be set by the court, to be taxed and collected as costs.

The term "commercial transaction" is defined to mean all transactions except transactions for personal or household purposes. The term "party" is defined to mean any person, partnership, corporation, association, private organization, the state of Idaho or political subdivision thereof.

(4) In actions for personal injury, where the amount of plaintiff's claim for damages does not exceed twenty-five thousand dollars (\$25,000), there shall be taxed and allowed to the claimant, as part of the costs of the action, a reasonable amount to be fixed by the court as attorney's fees. For the plaintiff to be awarded attorney's fees for the prosecution of the action, written demand for payment of the claim and a statement of claim must have been served on the defendant's insurer, if known, or if there is no known insurer, then on the defendant, not less than sixty (60) days before

the commencement of the action; provided that no attorney's fees shall be allowed to the plaintiff if the court finds that the defendant tendered to the plaintiff, prior to the commencement of the action, an amount at least equal to ninety percent (90%) of the amount awarded to the plaintiff.

The term "statement of claim" shall mean a written statement signed by the plaintiff's attorney, or if no attorney, by the plaintiff which includes:

(a) An itemized statement of each and every item of damage claimed by the plaintiff including the amount claimed for general damages and the following items of special damages: (i) medical bills incurred up to the date of the plaintiff's demand; (ii) a good faith estimate of future medical bills; (iii) lost income incurred up to the date of the plaintiff's demand; (iv) a good faith estimate of future loss of income; and (v) property damage for which the plaintiff has not been paid.

(b) Legible copies of all medical records, bills and other documentation pertinent to the plaintiff's alleged damages.

If the plaintiff includes in the complaint filed to commence the action, or in evidence offered at trial, a different alleged injury or a significant new item of damage not set forth in the statement of claim, the plaintiff shall be deemed to have waived any entitlement to attorney's fees under this section.

(5) In all instances where a party is entitled to reasonable attorney's fees and costs under subsection (1), (2), (3) or (4) of this section, such party shall also be entitled to reasonable postjudgment attorney's fees and costs incurred in attempting to collect on the judgment. Such attorney's fees and costs shall be set by the court following the filing of a memorandum of attorney's fees and costs with notice to all parties and hearing.

(6) In any small claims case resulting in entry of a money judgment or judgment for recovery of specific property, the party in whose favor the judgment is entered shall be entitled to reasonable postjudgment attorney's fees and costs incurred in attempting to collect on the judgment. Such attorney's fees and costs shall be set by the court following the filing of a memorandum of attorney's fees and costs with notice to all parties and an opportunity for hearing. The amount of such attorney's fees shall be determined by the court after consideration of the factors set out in rule 54(e)(3) of the Idaho rules of civil procedure, or any future rule that the supreme court of the state of Idaho may promulgate, but the court shall not base its determination of such fees upon any contingent fees arrangement between attorney and client, or any arrangement setting such fees as a percentage of the judgment or the amount recovered. In no event shall postjudgment attorney's fees exceed the principal amount of the judgment or value of property recovered.

Approved March 20, 2012.

CHAPTER 95
(H.B. No. 600)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION FOR FISCAL YEAR 2013; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. There is hereby appropriated to the Division of Professional-Technical Education, the following amounts to be expended according

to the designated 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 TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. STATE LEADERSHIP & TECHNICAL ASSISTANCE:					
FROM:					
General					
Fund	\$1,615,500	\$276,500			\$1,892,000
Federal Grant					
Fund	<u>258,800</u>	<u>65,800</u>			<u>324,600</u>
TOTAL	\$1,874,300	\$342,300			\$2,216,600
II. GENERAL PROGRAMS:					
FROM:					
General					
Fund	\$188,600	\$22,000	\$10,279,600		\$10,490,200
Hazardous Materials/Waste Enforcement					
Fund			67,800		67,800
Federal Grant					
Fund	<u>170,600</u>	<u>16,700</u>	<u>4,252,400</u>		<u>4,439,700</u>
TOTAL	\$359,200	\$38,700	\$14,599,800		\$14,997,700
III. POSTSECONDARY PROGRAMS:					
FROM:					
General					
Fund				\$34,906,800	\$34,906,800
Unrestricted					
Fund				<u>546,000</u>	<u>546,000</u>
TOTAL				\$35,452,800	\$35,452,800
IV. UNDERPREPARED ADULTS/DISPLACED HOMEMAKERS:					
FROM:					
Displaced Homemaker					
Fund			\$170,000		\$170,000
Federal Grant					
Fund			<u>1,747,300</u>		<u>1,747,300</u>
TOTAL			\$1,917,300		\$1,917,300
V. RELATED SERVICES:					
FROM:					
General					
Fund	\$119,000	\$10,700	\$840,900		\$970,600
Miscellaneous Revenue					
Fund	211,200	31,500			242,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
Seminars and Publications					
Fund		140,000			140,000
Federal Grant					
Fund	<u>46,400</u>	<u>51,300</u>	<u>2,038,800</u>		<u>2,136,500</u>
TOTAL	\$376,600	\$233,500	\$2,879,700		\$3,489,800
GRAND TOTAL	\$2,610,100	\$614,500	\$19,396,800	\$35,452,800	\$58,074,200

SECTION 2. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 3. NON-GENERAL FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Division of Professional-Technical Education any unexpended and unencumbered balances of moneys categorized as dedicated funds and federal funds as appropriated for fiscal year 2012, to be used for nonrecurring expenditures, for the period July 1, 2012, through June 30, 2013.

Approved March 20, 2012.

CHAPTER 96
(H.B. No. 601)

AN ACT
APPROPRIATING MONEYS TO THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 2013; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho for the Agricultural Research and Cooperative Extension Service, the following amounts to be expended from the listed funds for the period July 1, 2012, through June 30, 2013:

FROM:

General Fund	\$23,604,100
Equine Education Fund	<u>50,000</u>
TOTAL	\$23,654,100

SECTION 2. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved March 20, 2012.

CHAPTER 97
(H.B. No. 602)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Department of Finance, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
State Regulatory				
Fund	\$4,773,300	\$1,555,100	\$21,400	\$6,349,800
Securities Investor Training				
Fund	<u>50,000</u>	<u>0</u>	<u>0</u>	<u>50,000</u>
TOTAL	\$4,823,300	\$1,555,100	\$21,400	\$6,399,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Finance is authorized no more than sixty-two (62) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, 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 AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved March 20, 2012.

CHAPTER 98
(S.B. No. 1253)

AN ACT

RELATING TO SERVICE BY PUBLICATION; AMENDING SECTION 5-508, IDAHO CODE, TO ALLOW AN AFFIDAVIT TO BE USED TO SHOW THAT A CAUSE OF ACTION EXISTS AGAINST THE DEFENDANT IN RESPECT TO WHOM SERVICE IS MADE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 5-508, Idaho Code, be, and the same is hereby amended to read as follows:

5-508. SERVICE BY PUBLICATION -- AFFIDAVIT. When the person on whom the service is to be made resides outside of the state, or has departed from the state, or cannot after due diligence be found within the state, or conceals himself therein to avoid the service of summons, or is a foreign corporation having no managing or business agent, cashier or secretary within this state, or where any persons are made defendant by the style and description of unknown owners, or unknown heirs or unknown devisees of any deceased person and the names of such unknown owners or heirs or devisees are unknown to the complainant in the action, and such facts appear by affidavit to the satisfaction of the court in which the suit is pending, and it also appears by the affidavit or a verified complaint on file that a cause of action exists against the defendant in respect to whom the service is to be made, and that he is a necessary or proper party to the action, the court may make an order for the publication of the summons; and an affidavit setting forth in ordinary and concise language any of the grounds as above set forth, upon which the publication of the summons is sought, shall be sufficient without setting forth or showing what efforts have been made or what diligence has been exerted in attempting to find the defendant. Service upon any person, firm, company, association or corporation who is subject to the jurisdiction of the courts of this state pursuant to the provisions of section 5-514, Idaho Code, may be made in the manner provided in section 5-515, Idaho Code.

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

Approved March 21, 2012.

CHAPTER 99
(H.B. No. 403)

AN ACT

RELATING TO ABANDONED MOTOR VEHICLES; AMENDING CHAPTER 18, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1807B, IDAHO CODE, TO PROVIDE FOR AN IDAHO STATE POLICE AUTHORIZED TOW LIST AND TO REQUIRE BACKGROUND CHECKS OF CERTAIN PERSONS.

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

SECTION 1. That Chapter 18, 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 49-1807B, Idaho Code, and to read as follows:

49-1807B. IDAHO STATE POLICE AUTHORIZED TOW LIST -- BACKGROUND CHECKS. The Idaho state police shall establish and maintain an authorized tow list. To determine the suitability of applicants for inclusion on the Idaho state police authorized tow list, the Idaho state police shall require every applicant towing firm owner, driver and operator to provide information and fingerprints necessary to obtain criminal history information from the Idaho state police bureau of criminal identification and the federal bureau of investigation. The cost of taking and processing such fingerprints shall be the responsibility of the applicant. Pursuant to section 67-3008, Idaho Code, the Idaho state police shall submit a set of fingerprints obtained from the applicant and the required fees to the

Idaho state police bureau of criminal identification for a criminal records check of state and national databases. The Idaho state police may receive criminal history information from the Idaho state police bureau of criminal identification and from the federal bureau of investigation for the purpose of evaluating the fitness of applicants for inclusion on the Idaho state police authorized tow list.

Approved March 21, 2012.

CHAPTER 100
(H.B. No. 459)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-407, IDAHO CODE, TO PROVIDE FOR NONRESIDENT HUNTING WITH THREE DAY FISHING LICENSES; AND AMENDING SECTION 36-416, IDAHO CODE, TO REVISE A NONRESIDENT FEE AND TO PROVIDE A FEE FOR NONRESIDENT HUNTING WITH THREE DAY FISHING LICENSES.

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

SECTION 1. That Section 36-407, Idaho Code, be, and the same is hereby amended to read as follows:

36-407. NONRESIDENT COMBINATION, FISHING, HUNTING, AND TRAPPING LICENSES -- FEES -- RIGHTS UNDER. Licenses of the sixth class shall be issued to nonresidents in the several kinds and for fees as follows:

(a) Nonresident Hunting With Three Day Fishing License. A license issued only to a person twelve (12) years of age or older entitling said person to pursue, hunt, or kill game birds, small game animals, unprotected birds and animals and predatory birds and animals and to purchase game tags as provided in section 36-409(b), Idaho Code, and to fish in the waters of the state for a period of three (3) consecutive days for any fish during an open season for those fish, excluding steelhead trout and anadromous salmon. Provided, that a license may be issued to qualified persons who are eleven (11) years of age to allow the application for a controlled hunt permit; however, said persons shall not hunt until they are twelve (12) years of age. A license of this kind may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(b) Nonresident Season Fishing License. A license entitling a person to fish in the public waters of the state. A license of this kind may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(c) Nonresident Trapping License. A license entitling a person to trap fur-bearing, unprotected, and predatory animals. A license of this kind may be had upon payment of a fee as specified in section 36-416, Idaho Code, providing the state of residence of said person grants similar trapping license privileges to residents of Idaho.

(d) Nonresident Nongame License. A license entitling a person to carry a shotgun or rifle for the protection of livestock, or to pursue, hunt and kill unprotected birds and animals and predatory birds and animals of this state. A license of this kind may be had by a nonresident person who is twelve (12) years of age or older upon payment of a fee as specified in section 36-416, Idaho Code. This license shall be valid only during the period of January 1 to August 31 of the calendar year in which issued, unless verified by the director that the licensee requires such a license to authorize him to carry a shotgun or rifle for the protection of livestock, in which case said license shall be valid until December 31 of the year in which issued.

(e) Nonresident Small Game Hunting License. A license issued only to a person twelve (12) years of age or older, entitling the person to hunt up-

land game birds (to include turkeys), migratory game birds, cottontail rabbits, huntable furbearers, and unprotected and predatory birds and animals of this state. A person holding this license shall purchase the appropriate required tags and permits, and may not hunt pheasants in an area during the first five (5) days of the pheasant season in that area. A license of this type may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(f) Falconry Meet Permit. The director may issue a special permit for a regulated meet scheduled for a specific number of days upon payment of a fee as specified in section 36-416, Idaho Code. Only trained raptors may be used under the special permit issued under the provisions of this subsection.

(g) Daily Fishing License -- Resident May Purchase. A license entitling a person to fish in the waters of the state on a day-to-day basis. A license of this kind may be had by a resident or nonresident person (the provisions of section 36-405, Idaho Code, notwithstanding), upon payment of a fee as specified in section 36-416, Idaho Code, for the first effective day and a fee as specified in section 36-416, Idaho Code, for each consecutive day thereafter.

(h) Nonresident Three Day Fishing License with Steelhead or Salmon Permit. A license entitling a nonresident to fish in the waters of the state for a period of three (3) consecutive days for any fish, including steelhead trout or anadromous salmon during an open season for those fish may be had upon payment of a fee as specified in section 36-416, Idaho Code. The three (3) day license holder may fish for any species of fish, steelhead trout and anadromous salmon subject to the limitations prescribed in rules promulgated by the commission. A nonresident may purchase as many of the licenses provided in this subsection as he desires provided that the nonresident is otherwise eligible to do so.

(i) Nonresident Junior Fishing License. A license entitling a nonresident who is less than eighteen (18) years of age to fish in the waters of this state may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(j) Nonresident Combination Licenses. A license entitling the person to hunt and fish for game animals, game birds, fish and unprotected and predatory animals of the state may be had by a person twelve (12) years of age or older upon payment of a fee as specified in section 36-416, Idaho Code. A license may be issued to a qualified person who is eleven (11) years of age to allow the application for a controlled hunt permit; however, the person shall not hunt until he is twelve (12) years of age.

(k) Nonresident Junior Mentored Hunting License. A license entitling a nonresident between twelve (12) and seventeen (17) years of age, inclusive, to hunt game animals, upland game birds (including turkeys), migratory game birds, cottontail rabbits, and unprotected and predatory birds and animals of this state only when accompanied in the field by the holder of an adult Idaho hunting license. A person holding this license shall purchase the appropriate required tags as provided in section 36-409(b), Idaho Code, and permits. Provided, that a license may be issued to qualified persons who are eleven (11) years of age to allow the application for a controlled hunt permit; however, said persons shall not hunt until they are twelve (12) years of age. A license of this kind may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(l) Nonresident Youth Small Game Licenses -- Hunting. A license entitling a nonresident of ten (10) or eleven (11) years of age to hunt upland game birds (including turkeys), migratory game birds, cottontail rabbits, huntable furbearers, and unprotected and predatory birds and animals of this state only while accompanied in the field by the holder of an adult Idaho hunting license may be had upon payment of a fee as specified in section 36-416, Idaho Code. Provided, that a license may be issued to qualified persons who are nine (9) years of age to allow the application for a controlled

hunt turkey permit; however, said persons shall not hunt until they are ten (10) years of age.

(m) Youth Hunter Education Graduate Licenses -- Hunting -- Resident May Purchase. A license entitling a person between ten (10) and seventeen (17) years of age, inclusive, to hunt upland game birds (except turkeys), migratory game birds, cottontail rabbits, huntable furbearers, and unprotected and predatory birds and animals of this state only when accompanied in the field by the holder of an adult Idaho hunting license. A person holding this license shall purchase the appropriate required permits. A license of this kind may be issued to a resident or nonresident person, notwithstanding the provisions of section 36-405, Idaho Code, upon payment of a fee as specified in section 36-416, Idaho Code.

(n) Nonresident Disabled American Veteran. A license entitling a person to participate in a hunt in association with a qualified organization. "Qualified organization," as used in association with these licenses, shall be as defined in section 36-408(7), Idaho Code.

SECTION 2. That Section 36-416, Idaho Code, be, and the same is hereby amended to read as follows:

36-416. SCHEDULE OF LICENSE FEES.

(a) Sport Licenses

License	Resident	Non-Resident
Combination License	\$ 31.75	\$ 238.25
Hunting License	11.00	153.00 N/A
<u>Hunting License with 3 Day Fishing License</u>	<u>N/A</u>	<u>153.00</u>
Fishing License	24.00	96.50
Sr. Combination License (65 and Older)	10.00	N/A
Sportsman's Pak License	108.50	N/A
Jr. Combination License	15.75	N/A
Jr. Hunting License	5.50	N/A
Jr. Mentored Hunting License	N/A	30.00
Youth Small Game License	5.50	18.25
Youth Hunter Education Graduate Hunting License	3.25	3.25
Jr. Fishing License	12.00	20.00
Disabled Combination License	3.25	3.25
Disabled Fishing License	3.25	N/A
Military Furlough Combination License	15.75	N/A
Military Furlough Fishing License	15.75	N/A
Small Game Hunting License	N/A	96.00
3 Day Small Game Hunting License	N/A	33.75
Daily Fishing (1st-day) License	9.75	11.00
Consecutive Day Fishing License	5.00	6.00
3 Day Fishing with Salmon/Steelhead Permit	N/A	35.75
Nongame Hunting License	N/A	33.75

For purposes of this subsection, disabled combination licenses provided to nonresidents shall be limited to nonresident disabled American veterans participating in a hunt in association with a qualified organization. "Qualified organization," as used in association with these licenses, shall be as defined in section 36-408 (7), Idaho Code.

(b) Sport Tags

Deer Tag	\$ 18.00	\$ 300.00
Controlled Hunt Deer Tag	18.00	300.00
Jr. or Sr. or Disabled American Veteran Deer Tag	9.00	9.00
Jr. Mentored Deer Tag	N/A	22.00
Elk A Tag	29.00	415.00
Elk B Tag	29.00	415.00
Controlled Hunt Elk Tag	29.00	415.00
Jr. or Sr. or Disabled American Veteran Elk Tag	14.75	14.75
Jr. Mentored Elk Tag	N/A	38.00
Bear Tag	9.75	184.25
Jr. or Sr. or Disabled American Veteran Bear Tag	5.00	5.00
Jr. Mentored Bear Tag	N/A	22.00
Turkey Tag	18.00	78.25
Jr. or Sr. or Disabled American Veteran Turkey Tag	9.00	9.00
Jr. Mentored Turkey Tag	N/A	18.00
Mountain Lion Tag	9.75	184.25
Gray Wolf Tag	9.75	184.25
Antelope Tag	29.50	310.00
Moose Tag	165.00	2,100.00
Sheep Tag	165.00	2,100.00
Goat Tag	165.00	2,100.00
Sandhill Crane Tag	18.00	65.75

For purposes of this subsection, Jr. or Sr. or disabled American veteran tags provided to nonresidents shall be limited to nonresident disabled American veterans participating in a hunt in association with a qualified organization. "Qualified organization," as used in association with these tags, shall be as defined in section 36-408(7), Idaho Code.

(c) Sport Permits

Bear Baiting Permit	\$ 11.00	\$ 30.00
Hound Hunter Permit	11.00	168.00
WMA Upland Game Bird Permit	22.00	50.00
Archery Permit	16.50	18.25
Muzzleloader Permit	16.50	18.25
Salmon Permit	11.00	24.00
Steelhead Permit	11.00	24.00
Federal Migratory Bird Harvest Info. Permit	0.00	3.00

Disabled Archery Permit	0.00	0.00
2-Pole Fishing Permit	12.00	13.75
Turkey Controlled Hunt Permit	6.00	6.00
Sage/Sharptail Grouse Permit	3.00	3.00
Disabled Hunt Motor Vehicle Permit	0.00	0.00
(d) Commercial Licenses and Permits		
Raptor Captive Breeding Permit	\$ 65.75	\$ 78.75
Falconry Permit	27.25	N/A
Falconry Capture Permit	N/A	168.00
Jr. Trapping License	5.50	N/A
Trapping License	25.00	300.00
Taxidermist-Fur Buyer License 5 year license	175.00	N/A
1 year license	38.25	168.25
Shooting Preserve Permit	329.75	N/A
Commercial Wildlife Farm License	137.50	N/A
Commercial Fishing License	110.00	265.00
Wholesale Steelhead License	165.00	198.25
Retail Steelhead Trout Buyer's License	33.00	39.25
(e) Commercial Tags		
Bobcat Tag	\$ 3.00	\$ 3.00
Otter Tag	3.00	3.00
Net Tag	55.00	65.75
Crayfish/Minnow Tag	1.25	3.00
(f) Miscellaneous-Other Licenses		
Duplicate License	\$ 5.50	\$ 6.50
Shooting Preserve License	11.00	22.00
Captive Wolf License	22.00	N/A
(g) Miscellaneous-Other Tags		
Duplicate Tag	\$ 5.50	\$ 6.50
Wild Bird Shooting Preserve Tag	5.50	6.50

(h) Miscellaneous-Other Permits-Points-Fees

Falconry In-State Transfer		
Permit	\$ 5.50	\$ N/A
Falconry Meet Permit	N/A	26.25
Rehab Permit	3.00	3.00
Educational Fishing Permit	0.00	0.00
Live Fish Importation		
Permit	3.00	3.00
Sport Dog and Falconry Training		
Permit	3.00	3.00
Wildlife Transport Permit	3.00	3.00
Scientific Collection		
Permit	50.00	50.00
Private Park Permit	21.75	26.25
Wildlife Import Permit	21.75	26.25
Wildlife Export Permit	11.00	13.25
Wildlife Release Permit	11.00	13.25
Captive Wildlife Permit	21.75	26.25
Fishing Tournament Permit	21.75	25.00
Dog Field Trial Permit	33.00	40.00
Live Fish Transport Permit	21.75	26.25
Controlled Hunt Application		
Fee	4.50	13.00
Fee for Application for the Purchase of		
Controlled Hunt Bonus or Preference		
Points	4.50	4.50
Nursing Home Fishing Permit	33.00	N/A

Approved March 21, 2012.

CHAPTER 101
(H.B. No. 461)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-408, IDAHO CODE, TO PROVIDE THAT QUALIFIED ORGANIZATIONS THAT CERTIFY DISABLED MILITARY VETERANS ELIGIBLE IN REGARD TO ISSUANCE OF FREE BIG GAME PERMITS OR TAGS MAY INCLUDE NONPROFIT ORGANIZATIONS THAT ARE QUALIFIED UNDER SECTION 501(c)(19) OF THE INTERNAL REVENUE CODE.

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

SECTION 1. That Section 36-408, Idaho Code, be, and the same is hereby amended to read as follows:

36-408. COMMISSION'S AUTHORITY -- TAGS -- PERMITS -- NONRESIDENTS LIMITED -- OUTFITTERS SET-ASIDE. (1) Tags and Permits -- Method of Use. The

commission is hereby authorized to prescribe the number and kind of wildlife that may be taken under authority of the several types of tags and permits provided for in this title, and the manner in which said tags and permits shall be used and validated.

(2) Limit -- Licenses, Tags or Permits -- Controlled Hunts. The commission is hereby authorized to establish a limit annually as to the number of each kind and class of licenses, tags, or permits to be sold or issued and is further authorized to limit the number or prohibit entirely, the participation by nonresidents in controlled hunts.

(3) Outfitters Set-aside. When the commission establishes a limit as to the number of nonresident deer tags and nonresident elk tags, it shall set aside annually a maximum of twenty-five percent (25%) of the nonresident deer tag and nonresident elk tag limit. The set-aside tags shall be sold pursuant to commission rule, only to persons that have entered into an agreement for that year to utilize the services of an outfitter licensed pursuant to chapter 21, title 36, Idaho Code.

In order for a person to purchase any set-aside nonresident deer tag or nonresident elk tag, that person's outfitter must submit an application with the proper fees as required by the director. If any nonresident deer tags or nonresident elk tags set aside pursuant to this subsection are unsold by July 1 of the year in which they were set aside, they may be sold by the department to the general public who are nonresidents. The commission may promulgate all necessary rules to implement the provisions of this subsection.

(4) Deer and Elk Tag Allocation. If the commission limits the number of deer or elk tags available for use in any game management area, unit or zone, the commission may allocate by rule a number of deer or elk tags for use by hunters that have entered into an agreement for that year to utilize the services of an outfitter licensed pursuant to chapter 21, title 36, Idaho Code.

(5) Special Game Tags. The commission is hereby authorized to issue two (2) special bighorn sheep tags per year.

(a) Auction bighorn sheep tag. One (1) special bighorn sheep tag shall be auctioned off by an incorporated nonprofit organization dedicated to wildlife conservation, selected by the commission. The tag shall be issued by the department of fish and game to the highest eligible bidder. No more than five percent (5%) of all proceeds for the tag may be retained by the organization. The tag to be issued pursuant to this subsection shall be taken from the nonresident bighorn sheep tag quota. The net proceeds shall be forwarded to the director for deposit in the fish and game expendable trust account and shall be used for bighorn sheep research and management purposes. Moneys raised pursuant to this subsection may not be used to transplant additional bighorn sheep into that portion of southwest Idaho south of the Snake River and west of U.S. highway no. 93, nor for litigation or environmental impact statements involving bighorn sheep. No transplants of bighorn sheep accomplished with moneys raised pursuant to this subsection shall occur in any area until hearings are conducted in the area.

(b) Lottery bighorn sheep tag. The commission is also authorized to issue one (1) special bighorn sheep tag which will be disposed of by lottery. The lottery permit can be marketed by the department of fish and game or a nonprofit organization dedicated to wildlife conservation selected by the commission. The tag will be issued by the department of fish and game to an eligible person drawn from the lottery provided in this subsection. No more than twenty-five percent (25%) of gross revenue can be retained for administrative costs by the organization. All net proceeds for the tag disposed of by lottery pursuant to this subsection shall be remitted to the department and deposited in the fish and game expendable trust account. Moneys in the account from the lottery bighorn sheep tag shall be utilized by the department in solving

problems between bighorn sheep and domestic sheep, solving problems between wildlife and domestic animals or improving relationships between sportsmen and private landowners.

(6) Issuance of free permit or tag to minor children with life-threatening medical conditions. Notwithstanding any other provision of law, the commission may issue free big game permits or tags to minor children who have life-threatening medical conditions that have been certified eligible by a qualified organization. The commission may prescribe by rule the manner and conditions of issuing and using the permits or tags authorized under this subsection (6). For purposes of this subsection (6) a "qualified organization" means a nonprofit organization that is qualified under section 501(c)(3) of the Internal Revenue Code and that affords opportunities and experiences to minor children with life-threatening medical conditions.

(7) Issuance of free permit or tag to military veterans with disabilities. Notwithstanding any other provision of law, the commission may issue free big game permits or tags to disabled military veterans who have been certified eligible by a qualified organization. The commission may prescribe by rule the manner and conditions of issuing and using the permits or tags authorized under this subsection (7). For purposes of this subsection (7), a "qualified organization" means a governmental agency that assists veterans or a nonprofit organization that is qualified under section 501(c)(3) or section 501(c)(19), of the Internal Revenue Code and that affords opportunities, experiences and assistance to disabled veterans.

(8) Special Wolf Tags. The commission is hereby authorized to issue up to ten (10) special auction or lottery tags for hunting wolves. Special wolf tags will be auctioned off or made available through lottery by incorporated nonprofit organizations dedicated to wildlife conservation and selected by the director. No more than five percent (5%) of all proceeds for each tag may be retained by the nonprofit organization for administrative costs involved. Each wolf tag shall be issued by the department of fish and game and awarded to the highest eligible bidder or winner of a lottery. Each tag will be good for the harvest of one (1) wolf pursuant to commission rule. The proceeds from each tag will be sent to the director to be placed in the department general license fund.

Approved March 21, 2012.

CHAPTER 102
(H.B. No. 525)

AN ACT

RELATING TO GAME TAGS; AMENDING SECTION 36-409, IDAHO CODE, TO PROVIDE FOR FISH AND GAME COMMISSION RULES TO ALLOW EXCEPTION FROM REQUIRED TAG POSSESSION FOR DISABLED HUNTERS UPON CERTAIN CIRCUMSTANCES OCCURRING.

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

SECTION 1. That Section 36-409, Idaho Code, be, and the same is hereby amended to read as follows:

36-409. GAME TAGS -- PERMITS -- FEES -- PENALTY. (a) Resident Game Tags. A resident who has obtained authorization to hunt, as provided in section 36-401, Idaho Code, or has purchased or obtained a license to hunt, as provided in section 36-406, Idaho Code, upon payment of the fees provided herein shall be eligible to receive a resident game tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear, wolf, sandhill crane or turkey in accordance with the laws of this state and rules promulgated by the commission; provided further, that any

person who holds a senior resident combination license or any person who holds a junior combination or hunting license or any disabled American veteran who holds a disabled combination license, may be issued a bear, deer, elk, or turkey tag for a fee as specified in section 36-416, Idaho Code; provided further, that resident game tags may be issued only to those persons who meet residency requirements of subsection (s) of section 36-202, Idaho Code. In the event an emergency is declared to open a season to protect private property as provided in section 36-106(e)6.(B), Idaho Code, the affected landowner or his designee shall be eligible to receive a resident deer, elk or antelope tag without charge; provided further, that resident game tags may be issued only to persons who qualify as residents pursuant to section 36-202, Idaho Code.

(b) Nonresident Game Tags. A nonresident who has purchased a license to hunt, as provided in section 36-407(a) or (k), Idaho Code, or has obtained a license to hunt, as provided in section 36-406(e), Idaho Code, or a resident who has purchased or obtained a license or authorization to hunt, as provided in section 36-401 or 36-406, Idaho Code, upon payment of the fees provided herein, shall be eligible to receive a nonresident tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear, wolf, sandhill crane or turkey in accordance with the laws of this state and rules promulgated by the commission; provided further that a nonresident who has purchased a license to hunt, as provided in section 36-407(k), Idaho Code, shall be eligible to receive a junior mentored deer, elk, bear, or turkey tag for a fee as specified in section 36-416, Idaho Code.

(c) Game Tags Required. The appropriate tag must be had for the hunting or taking of each and every one of the aforementioned wildlife. The commission shall promulgate rules to allow exception from tag possession to take wildlife for a disabled hunter companion who is assisting a hunter possessing the appropriate tag and a valid disabled combination license or a disabled archery permit or a disabled hunt motor vehicle permit or who is a disabled veteran participating in a hunt as provided in section 36-408(7), Idaho Code. Provided, however, that the requirements for a wolf tag, a mountain lion tag or a bear tag, as to different periods of time and areas of the state, shall be determined and specified by the commission. Provided further, that the commission may promulgate rules to allow a nonresident deer or elk tag to be used to hunt and kill either a bear, wolf or a mountain lion during the open season for deer or elk in that area, unit or zone as may be specified by the commission. All of said tags are to bear and have serial numbers.

(d) Game Tag to Be Validated and Attached to Carcass. As soon as any person kills any wildlife for which a tag is required, said tag, belonging to him, must be validated and attached to said wildlife in a manner provided by commission rule.

(e) Archery Permits. In addition to meeting the license and tag requirements provided in this chapter, any person participating in any controlled or general game season which has been specifically designated as an archery hunt must have in his possession an archery hunt permit which may be purchased for a fee as specified in section 36-416, Idaho Code.

(f) Muzzleloader Permit. In addition to meeting the license and tag requirements provided in this chapter, any person participating in any controlled or general game season which has been specifically designated as a muzzleloader hunt must have in his possession a muzzleloader permit which may be purchased for a fee as specified in section 36-416, Idaho Code.

(g) Hound Hunter Permit -- Resident -- Nonresident. Any person using a dog for the purpose of hunting or for taking, as defined in section 36-202, Idaho Code, big game or furbearing animals must have in his possession a valid hound hunter permit which may be purchased by resident and nonresident license holders for a fee as specified in section 36-416, Idaho Code.

(h) Nonresident Bird of Prey Capture Permit. The commission may, under rules as it may prescribe, issue a nonresident bird of prey capture permit. This capture permit may be purchased by any licensed, nonresident falconer for capturing birds of prey in Idaho. The fee for the permit shall be as specified in section 36-416, Idaho Code, and the permit shall be issued under the condition that the nonresident's home state allows reciprocal raptor capturing privileges for Idaho falconers.

(i) Wildlife Management Area (WMA) Upland Game Bird Permit. The commission may, under rules as it may prescribe, issue a wildlife management area upland game bird permit that must be purchased by all persons over sixteen (16) years of age prior to hunting stocked upland game birds on state wildlife management areas designated by the commission. The fee for the permit shall be as specified in section 36-416, Idaho Code.

(j) Bear Baiting Permit. The commission may, under rules as it may prescribe, issue a bear baiting permit. Any person placing or using bait as may be allowed by rule for the purpose of attracting bear must have in his possession a valid bear baiting permit which may be purchased by a license holder for a fee as specified in section 36-416, Idaho Code.

(k) Migratory Bird Harvest Information Program Permit. The commission may, as provided by federal laws or regulations and under rules as it may prescribe, issue a migratory bird harvest information program permit that must be purchased by all persons prior to hunting migratory game birds as required by federal law or regulations. The fee for the permit shall be as specified in section 36-416, Idaho Code.

(l) Dog Field Trial Permit. The commission may, under rules as it may prescribe, issue a dog field trial permit to any person using birds for dog field trials or training as may be allowed by rule. The permit may be purchased for a fee as specified in section 36-416, Idaho Code.

(m) Idaho Nursing Home Facility Resident Fishing Permit. The commission may, under rules as it may prescribe, issue an Idaho nursing home facility resident fishing permit that must be purchased by an Idaho nursing home facility to allow residents of its facility to fish during the open season. Facilities eligible to purchase this permit are: intermediate care facilities providing twenty-four (24) hour skilled nursing care, assisted living facilities providing twenty-four (24) hour extensive assistance and skilled nursing facilities providing twenty-four (24) hour skilled nursing. By purchasing this permit the facility assumes full responsibility for and control over the facility residents while using the permit. All laws, rules and proclamations apply to the use of this permit and it is the responsibility of the facility to assure compliance with all laws, rules and proclamations. In case of a violation the facility shall be held accountable and any citations shall be issued to the facility. The permit may be purchased for a fee as specified in section 36-416, Idaho Code.

(n) Disabled American Veteran Game Tags. Any nonresident disabled American veteran participating in a hunt in association with a qualified organization may be issued a bear, deer, elk or turkey tag for a fee as specified in section 36-416, Idaho Code. "Qualified organization," as used in association with these tags, shall be as defined in section 36-408(7), Idaho Code.

Approved March 21, 2012.

CHAPTER 103
(H.B. No. 540, As Amended)

AN ACT

RELATING TO MOTOR VEHICLE FINANCIAL RESPONSIBILITY; AMENDING CHAPTER 12, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1234, IDAHO CODE, TO PROVIDE FOR THE ONLINE INSURANCE VERIFICATION SYSTEM, TO EXEMPT CERTAIN INFORMATION FROM DISCLOSURE, TO REQUIRE THAT PEACE OFFICERS ACCESS CERTAIN INFORMATION FROM SUCH SYSTEM AND TO GRANT THE IDAHO TRANSPORTATION DEPARTMENT RULEMAKING AUTHORITY; AMENDING SECTION 9-340C, IDAHO CODE, TO EXEMPT CERTAIN INFORMATION FROM DISCLOSURE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 12, 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 49-1234, Idaho Code, and 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 current 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. 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 9-340C, Idaho Code, be, and the same is hereby amended to read as follows:

9-340C. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PERSONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following records are exempt from disclosure:

(1) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. Names of applicants to classified or merit system positions shall not be disclosed to the public without the applicant's written consent. Disclosure of names as part of a background check is permitted. Names of the five (5) final applicants to all other positions shall be available to the public. If such group is less than five (5) finalists, then the entire list of applicants shall be available to the public. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(2) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retire-

ment system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(3) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public disclosure.

(4) Records of a personal nature as follows:

(a) Records of personal debt filed with a public agency or independent public body corporate and politic pursuant to law;

(b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;

(c) Records of ownership of financial obligations and instruments of a public agency or independent public body corporate and politic, such as bonds, compiled by the public agency or independent public body corporate and politic pursuant to law;

(d) Records, with regard to the ownership of, or security interests in, registered public obligations;

(e) Vital statistics records; and

(f) Military records as described in and pursuant to section 65-301, Idaho Code.

(5) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-3045B, Idaho Code.

(6) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for people who are elderly, indigent or have mental or physical disabilities, or participation in an environmental or a public health study, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(7) Employment security information, except that a person may agree, through written, informed consent, to waive the exemption so that a third party may obtain information pertaining to the person, unless access to the information by the person is restricted by subsection (3) (a), (3) (b) or (3) (d) of section 9-342, Idaho Code. Notwithstanding the provisions of section 9-342, Idaho Code, a person may not review identifying information concerning an informant who reported to the department of labor a suspected violation by the person of the employment security law, chapter 13, title 72, Idaho Code, under an assurance of confidentiality. As used in this section and in chapter 13, title 72, Idaho Code, "employment security information" means any information descriptive of an identifiable person or persons that is received by, recorded by, prepared by, furnished to or collected by the department of labor or the industrial commission in the administration of the employment security law.

(8) Any personal records, other than names, business addresses and business phone numbers, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency or independent public body corporate and politic pursuant to a statutory requirement for licensing, certification, permit or bonding.

(9) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.

(10) The records, findings, determinations and decisions of any prelitigation screening panel formed under chapters 10 and 23, title 6, Idaho Code.

(11) Complaints received by the board of medicine and investigations and informal proceedings, including informal proceedings of any committee of the board of medicine, pursuant to chapter 18, title 54, Idaho Code, and rules adopted thereunder.

(12) Records of the department of health and welfare or a public health district that identify a person infected with a reportable disease.

(13) Records of hospital care, medical records, including prescriptions, drug orders, records or any other prescription information that specifically identifies an individual patient, prescription records maintained by the board of pharmacy under sections 37-2726 and 37-2730A, Idaho Code, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(14) Information collected pursuant to the directory of new hires act, chapter 16, title 72, Idaho Code.

(15) Personal information contained in motor vehicle and driver records that is exempt from disclosure under the provisions of chapter 2, title 49, Idaho Code.

(16) Records of the financial status of prisoners pursuant to subsection (2) of section 20-607, Idaho Code.

(17) Records of the Idaho state police or department of correction received or maintained pursuant to section 19-5514, Idaho Code, relating to DNA databases and databanks.

(18) Records of the department of health and welfare relating to a survey, resurvey or complaint investigation of a licensed nursing facility shall be exempt from disclosure. Such records shall, however, be subject to disclosure as public records as soon as the facility in question has received the report, and no later than the fourteenth day following the date that department of health and welfare representatives officially exit the facility pursuant to federal regulations. Provided however, that for purposes of confidentiality, no record shall be released under this section which specifically identifies any nursing facility resident.

(19) Records and information contained in the registry of immunizations against childhood diseases maintained in the department of health and welfare, including information disseminated to others from the registry by the department of health and welfare.

(20) Records of the Idaho housing and finance association (IHFA) relating to the following:

- (a) Records containing personal financial, family, health or similar personal information submitted to or otherwise obtained by the IHFA;

(b) Records submitted to or otherwise obtained by the IHFA with regard to obtaining and servicing mortgage loans and all records relating to the review, approval or rejection by the IHFA of said loans;

(c) Mortgage portfolio loan documents;

(d) Records of a current or former employee other than the employee's duration of employment with the association, position held and location of employment. This exemption from disclosure does not include the contracts of employment or any remuneration, including reimbursement of expenses, of the executive director, executive officers or commissioners of the association. All other personnel information relating to an association employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence, retirement plan information and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. An employee or authorized representative may inspect and copy that employee's personnel records, except for material used to screen and test for employment or material not subject to disclosure elsewhere in the Idaho public records act.

(21) Records of the department of health and welfare related to child support services in cases in which there is reasonable evidence of domestic violence, as defined in chapter 63, title 39, Idaho Code, that can be used to locate any individuals in the child support case except in response to a court order.

(22) Records of the Idaho state bar lawyer assistance program pursuant to chapter 49, title 54, Idaho Code, unless a participant in the program authorizes the release pursuant to subsection (4) of section 54-4901, Idaho Code.

(23) Records and information contained in the trauma registry created by chapter 20, title 57, Idaho Code, together with any reports, analyses and compilations created from such information and records.

(24) Records contained in the court files, or other records prepared as part of proceedings for judicial authorization of sterilization procedures pursuant to chapter 39, title 39, Idaho Code.

(25) The physical voter registration card on file in the county clerk's office; however, a redacted copy of said card shall be made available consistent with the requirements of this section. Information from the voter registration card maintained in the statewide voter registration database, including age, will be made available except for the voter's driver's license number, date of birth and, upon a showing that the voter comes within the provisions of subsection (30) of this section or upon showing of good cause by the voter to the county clerk in consultation with the county prosecuting attorney, the physical residence address of the voter. For the purposes of this subsection good cause shall include the protection of life and property and protection of victims of domestic violence and similar crimes.

(26) File numbers, passwords and information in the files of the health care directive registry maintained by the secretary of state under section 39-4515, Idaho Code, are confidential and shall not be disclosed to any person other than to the person who executed the health care directive or the revocation thereof and that person's legal representatives, to the person who registered the health care directive or revocation thereof, and to physicians, hospitals, medical personnel, nursing homes, and other persons who have been granted file number and password access to the documents within that specific file.

(27) Records in an address confidentiality program participant's file as provided for in chapter 57, title 19, Idaho Code, other than the address designated by the secretary of state, except under the following circumstances:

(a) If requested by a law enforcement agency, to the law enforcement agency; or

(b) If directed by a court order, to a person identified in the order.

(28) Except as otherwise provided by law relating to the release of information to a governmental entity or law enforcement agency, any personal information including, but not limited to, names, personal and business addresses and phone numbers, sex, height, weight, date of birth, social security and driver's license numbers, or any other identifying numbers and/or information related to any Idaho fish and game licenses, permits and tags unless written consent is obtained from the affected person.

(29) Documents and records related to continuing education and record-keeping violations that are maintained by the Idaho board of veterinary medicine under the provisions of section 54-2118(1)(b), Idaho Code, provided the requirements set forth therein are met.

(30) The Idaho residential street address and telephone number of an eligible law enforcement officer and such officer's residing household member(s) as provided for in chapter 58, title 19, Idaho Code, except under the following circumstances:

(a) If directed by a court order, to a person identified in the court order;

(b) If requested by a law enforcement agency, to the law enforcement agency;

(c) If requested by a financial institution or title company for business purposes, to the requesting financial institution or title company; or

(d) If the law enforcement officer provides written permission for disclosure of such information.

(31) All information exchanged between the Idaho transportation 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, pursuant to section 49-1234, Idaho Code.

(32) Nothing in this section shall prohibit the release of information to the state controller as the state social security administrator as provided in section 59-1101A, Idaho Code.

SECTION 3. This act shall be in full force and effect on and after January 1, 2014.

Approved March 21, 2012.

CHAPTER 104
(H.B. No. 543)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-1508, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CHILDREN WITH FIREARMS FOR HUNTING.

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

SECTION 1. That Section 36-1508, Idaho Code, be, and the same is hereby amended to read as follows:

36-1508. SHOOTING FROM PUBLIC HIGHWAY -- CHILDREN IN POSSESSION OF FIREARMS. No person shall:

(a) Shoot from Public Highway. Discharge any firearm from or across a public highway.

(b) Children with Firearms. No person under the age of ~~twelve~~ ten (120) years shall have in his possession any shotgun, rifle or other firearm while in the fields or forests or in any tent, camp, auto or any other vehicle in the state of Idaho, except that the holder of a ~~youth small game license or youth hunter education graduate license~~ valid hunting license or a participant in a mentored hunting program as prescribed by rules of the commission, if accompanied by an adult licensed to hunt in the state of Idaho, may possess a firearm for hunting while in the fields or forests.

Approved March 21, 2012.

CHAPTER 105
(S.B. No. 1308)

AN ACT

RELATING TO TEACHERS; AMENDING SECTION 33-1217, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SICK LEAVE RIGHTS.

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

SECTION 1. That Section 33-1217, Idaho Code, be, and the same is hereby amended to read as follows:

33-1217. ACCUMULATION OF UNUSED SICK LEAVE -- TRANSFER -- SICK LEAVE WHEN DISTRICTS DIVIDE OR CONSOLIDATE. Unused sick leave shall be accumulated from year to year as long as an employee remains continuously in the service of the same school district, including charter districts, to ninety (90) days accumulation of leave. Termination of employment in any district shall terminate sick leave rights, both current and accumulated, except when such employee is employed by another district or another state educational agency during the school year immediately following the year of termination or within three (3) school years immediately following the year of termination if termination of employment is due to a reduction in force; and the accumulated leave up to a maximum of ninety (90) days shall be secured for, and credited to, the employee by the district or state educational agency thereafter employing such employee. Whenever new school districts are formed by the consolidation or by the division of existing districts, the accumulated sick leave of school district employees who continue in service in the new district or districts created by such consolidation or division shall have such accumulated sick leave secured for, and credited to, them in such newly created district, or districts.

Approved March 21, 2012.

CHAPTER 106
(S.B. No. 1290)

AN ACT

RELATING TO DRAINAGE DISTRICTS; AMENDING SECTION 42-2914, IDAHO CODE, TO PROVIDE FOR REAPPORTIONMENT OF CERTAIN BENEFITS, TO PROVIDE FOR PETITIONS, TO PROVIDE FOR ORDERS RELATING TO HEARINGS, TO PROVIDE FOR PUBLICATION OF ORDERS, TO PROVIDE FOR OBJECTIONS AND TO PROVIDE FOR ORDERS RELATING TO REAPPORTIONMENT; AMENDING SECTION 42-2961, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE APPORTIONMENT OF ESTIMATES

OF THE COST OF MAINTENANCE OF DRAINAGE DISTRICTS' DRAINAGE SYSTEMS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 42-2962, IDAHO CODE, TO PROVIDE A CODE REFERENCE RELATING TO THE APPORTIONMENT OF CERTAIN ASSESSMENTS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 42-2914, Idaho Code, be, and the same is hereby amended to read as follows:

42-2914. EXAMINATION OF LANDS -- REPORT OF COMMISSIONERS -- APPORTIONMENT AND REAPPORTIONMENT OF BENEFITS AND DAMAGES. As soon as may be after their appointment, or within such time as the court may direct, the commissioners shall examine the lands described in the petition and proposed to be drained and protected, and the lands over and upon which the work is proposed to be constructed and shall determine and report:

1. Whether the starting point, route and terminus of the proposed work and the proposed location thereof, is or are in all respects proper and feasible, and if not, what is or are so.

2. The estimated cost of the proposed work, including all incidental expenses and the cost of proceedings therefor.

3. The probable cost of keeping the same in repair after the work is completed.

4. What lands will be injured thereby and the aggregate amount of such injuries; and they shall award to each tract or lot, by whomsoever held, the amount of damage so determined by them.

5. What lands will be benefited by the construction of the proposed work, whether the benefits will equal or exceed the aggregate cost of constructing such work, including all incidental expenses, costs of proceedings and damages; and they shall apportion and assess the estimated cost of the same on the lands so benefited by setting opposite the correct description of each tract, lot or easement, the portion of such cost assessed as benefits thereon. And if any particular part of the work so proposed to be done shall be assessed upon any particular tracts or lots of land or upon any municipality or corporation they shall so specify; and if any municipality or corporation should in their judgment bear a part of the expense or as such will derive a public or special benefit from the whole or any part of such proposed work, they shall so report and assess the amount of such benefits.

6. Whether the proposed district, as set out in the petition filed, will embrace all the lands that may be damaged or benefited by the proposed work, and if not, what additional lands will be benefited or damaged and the amount of the benefits or damages in the same manner as though such lands were included in such original petition.

7. If the commissioners determine the lands benefited or the amount of said benefits has either changed or is in error, the commissioners may petition the court to reapportion the benefits to part or all of the lands within the district. Upon receipt of a petition, the court shall make and enter an order fixing a time and place when and where all persons interested may appear and object to the reapportionment of benefits, and the clerk of the court shall cause publication of the order in three (3) consecutive weekly issues in a newspaper of general circulation within each county in which any of the lands for which reapportionment of benefits is sought are located. Any landowner affected by the reapportionment of benefits may object against the whole or any part of the reapportionment pursuant to the provisions of section 42-2920, Idaho Code. Upon a hearing pursuant to the provisions of section 42-2921, Idaho Code, the court shall issue an order setting forth the reapportionment of benefits, if any.

SECTION 2. That Section 42-2961, Idaho Code, be, and the same is hereby amended to read as follows:

42-2961. APPORTIONMENT OF COST OF MAINTENANCE. The board of commissioners of any drainage district organized under the provisions of this chapter shall, on or before the third Monday of September of each year, make an estimate of the cost of maintenance of the drainage system constructed in such district, which estimate shall include the cost of making any necessary repairs that it might become necessary to make in the maintenance of such system. Such estimate shall be made for the succeeding year, and the amount so estimated shall be certified by the board of commissioners to the auditor of the county in which such district is located, on or before said date, and the amount thereof shall be apportioned to the landowners in such district benefited by said improvement in proportion to the ~~maximum~~ benefit originally assessed apportioned or reapportioned, and such amount shall be added to the general taxes of such landowners and collected therewith; provided, however, that at the option of the commissioners the amount apportioned to every landowner on any parcel or piece of land shall be not less than one dollar (\$1.00), which amount shall be a minimum assessment to be collected as a tax for the year on every such parcel or piece of land.

SECTION 3. That Section 42-2962, Idaho Code, be, and the same is hereby amended to read as follows:

42-2962. LEVY OF AND LIMITATION ON ASSESSMENTS. The commissioners may also levy assessments for any expense necessarily incurred by them for construction, maintenance, repair, or any extraordinary reasons, and also may add to said assessment sufficient to pay any deficiency occurring the preceding year or any other unpaid warrant indebtedness, if any, or to pay any outstanding warrants: provided, that any assessments to be hereafter made by any drainage commissioners to pay warrants shall not exceed ~~twenty percent~~ percent (20%) of the original cost of organization and construction in addition to the assessments which may be levied under section 42-2936, and such assessments, when made, shall be apportioned under section 42-2961, Idaho Code, and collected as hereinbefore provided for.

Approved March 23, 2012.

CHAPTER 107
(S.B. No. 1298)

AN ACT

RELATING TO CODIFIER'S CORRECTIONS IN STATUTES; AMENDING SECTION 8-507C, IDAHO CODE, TO MAKE CODIFIER'S CORRECTIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 36-1401, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 39-302, IDAHO CODE, TO REMOVE REFERENCE TO ARCHAIC LANGUAGE; AMENDING SECTION 39-303A, IDAHO CODE, TO REMOVE REFERENCE TO ARCHAIC LANGUAGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-304, IDAHO CODE, TO REMOVE REFERENCE TO ARCHAIC LANGUAGE; AMENDING SECTION 41-1941, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 56-234, 56-234A, 56-235A, 56-235B AND 56-235C, IDAHO CODE, TO MAKE CODIFIER'S CORRECTIONS; AMENDING SECTION 56-264, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 57-813, IDAHO CODE, TO INCREASE THE AMOUNT OF COUNTY DEDUCTIBLE; AND AMENDING SECTION 67-821, IDAHO CODE, TO REMOVE REFERENCE TO ARCHAIC LANGUAGE.

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

SECTION 1. That Section 8-507C, Idaho Code, be, and the same is hereby amended to read as follows:

8-507C. FORMS. The notice of exemptions, instructions to debtors and third parties, and the claim of exemption shall be in a form substantially similar to the form hereinafter provided. The forms shall be made available in English and Spanish language translations in the offices of each county sheriff. Notice, written in Spanish, of the availability of these documents in Spanish translation shall be set forth on the notice of exemptions.

IMPORTANT LEGAL NOTICE/NOTICIA LEGAL IMPORTANTE

MONEY/PERSONAL PROPERTY BELONGING TO YOU MAY HAVE BEEN TAKEN OR HELD IN ORDER TO SATISFY A COURT JUDGMENT. YOU MAY BE ABLE TO GET YOUR MONEY/PROPERTY BACK SO READ THIS NOTICE CAREFULLY.

SI SOLAMENTE HABLA ESPANOL PUEDE OBTENER UNA FORMA EN ESPANOL EN EL DEPARTAMENTO DEL SHERIFE.

The enclosed writ of execution and/or notice of garnishment has directed the sheriff to take custody by levying on your money and/or personal property in order to satisfy a court judgment.

The sheriff has levied on your money and/or personal property. You have FOURTEEN (14) DAYS after the date of mailing or personal service of these documents to file a claim of exemption with the sheriff. An exemption from levy entitles you to obtain the release of your money and personal property.

The following is a partial list of money and personal property that may be exempt from levy. EXEMPTIONS ARE PROVIDED BY IDAHO AND FEDERAL LAW AND CAN BE FOUND IN THE IDAHO CODE AND IN THE UNITED STATES CODE. MOST OF THE EXEMPTIONS PROVIDED BY THE STATE ARE CONTAINED IN CHAPTER 6, TITLE 11, IDAHO CODE. GOVERNMENTAL BENEFITS SUCH AS SOCIAL SECURITY, SSI, VETERANS, RAILROAD RETIREMENT, MILITARY, AND WELFARE ARE EXEMPT FROM LEVY IN MOST CASES UNDER FEDERAL LAW.

This list may not be complete and may not include all exemptions that apply in your case because of periodic changes in the law. Additionally, some of the exemptions may not apply in full or under all circumstances. There may be special requirements for child support. You or your attorney should read the exemption statutes which apply to you.

If you believe the money or personal property that ~~are~~ is being levied upon is exempt, you should immediately file a claim of exemption. If you fail to make a timely claim of exemption, the sheriff will release money to the plaintiff, or the property may be sold at an execution sale, perhaps at a price substantially below its value, and you may have to bring further court action to recover the money and property.

The sheriff cannot give you legal advice. Therefore, if you have any questions concerning your rights in this action, you should consult an attorney as soon as possible. You may contact the nearest office of Idaho legal aid services, inc. to inquire if you are eligible for their assistance.

SOME EXEMPTIONS TO WHICH YOU MAY BE ENTITLED

Type of Money and Property

1. Alimony, support, maintenance (money or property)
2. Appliances (household) (\$500750 per item, up to \$5,0007,500 gross)

3. Annuity contract payments
4. Bodily injury and wrongful death awards*
5. Books (professional) up to \$12,500
6. Burial plots
7. Child support payments*
8. Disability or illness benefits*
9. Furnishings (household) (\$500750 per item, up to \$5,0007,500 gross)
10. Health aids
11. Homestead, house, mobile home, and related structures
12. Jewelry (up to \$1,000)
13. Life insurance benefits payable to spouse or dependent*
14. Medical and/or hospital benefits
15. Military retirement and survivor's benefits
16. Motor vehicle: car, truck, motorcycle with a value of up to \$37,000 per person
17. Pension: stock bonus, profit sharing annuity, or similar plans
18. Personal property: (\$500750 per item, up to \$5,0007,500 gross) (furnishings, appliances, one firearm, animals, musical instruments, books, clothes, family portraits and heirlooms)
19. Public assistance: federal, state, or local including: Aid to Aged, Blind and Disabled (AABD); Aid to Dependent Children (AFDC); Aid to Permanently and Totally Disabled (APTD)
20. Public Employee's Benefits including Federal Civil Service Retirement, Idaho Retirement and Disability
21. Railroad Retirement Benefits
22. Retirement, pension or profit sharing plan qualified by IRS
23. Social Security Disability and Retirement Benefits
24. SSI (Supplemental Security Insurance Benefits)
25. Tools of trade and implements up to \$12,500
26. Unemployment benefits
27. Veterans benefits and insurance
28. Wages or salary:
 - Consumer debts primarily for personal or household purposes: exemption is 30 times the federal minimum wage or 25% of disposable income, whichever is greater
 - Nonconsumer debts: exemption is 30 times the federal minimum wage or 25% of disposable income, whichever is greater
29. Worker's compensation
30. An unmatured life insurance contract other than a credit life insurance contract
31. An aggregate interest, not to exceed \$5,000, in any accrued dividend or interest under, or loan value of, an unmatured life insurance contract under which the insured is the individual or a person of whom the individual is a dependent
32. An aggregate interest in any tangible personal property, not to exceed the value of \$800

*To the extent reasonably necessary for support of family and if not commingled with other funds.

INSTRUCTIONS TO DEFENDANTS AND THIRD PARTIES

In order to claim an exemption from execution and garnishment under Idaho and federal law, you, the defendant, judgment debtor, or a third party, holding or known to have an interest in the money and/or personal property, must:

1. DELIVER OR MAIL A CLAIM OF EXEMPTION TO THE SHERIFF WHO LEVIED UPON YOUR MONEY AND/OR PERSONAL PROPERTY AT (SHERIFF'S STREET ADDRESS) , WITHIN FOURTEEN (14) DAYS AFTER MAILING OR

PERSONAL SERVICE OF THESE INSTRUCTIONS, NOTICE OF EXEMPTIONS AND FORM FOR FILING A CLAIM OF EXEMPTION. IF YOU MAIL A CLAIM OF EXEMPTION, IT MUST BE RECEIVED BY THE SHERIFF WITHIN THE FOURTEEN (14) DAY PERIOD.

- 2. The sheriff has to notify the plaintiff or judgment creditor within one (1) business day, excluding weekends and holidays, that you filed a claim of exemption. The judgment creditor has five (5) business days, excluding weekends and holidays, after the date notice was provided that a claim of exemption was filed with the sheriff, to file a motion with the court contesting the claim of exemption.
- 3. If the judgment creditor notifies the sheriff that he will not object to the claim of exemption or does not file a motion with the court contesting the claim of exemption, the sheriff will immediately return the money and/or personal property or notify the bank or depository institution to release the money and/or personal property which has been levied upon.
- 4. IF THE JUDGMENT CREDITOR DOES FILE A MOTION WITH THE COURT CONTESTING THE CLAIM OF EXEMPTION, YOU, THE JUDGMENT DEBTOR OR ANY INTERESTED THIRD PARTY, WILL RECEIVE A COPY OF THE MOTION AND NOTICE OF HEARING. A HEARING WILL BE HELD WITHIN NOT LESS THAN FIVE (5) NOR MORE THAN TWELVE (12) DAYS AFTER THE FILING DATE OF THE MOTION. YOU SHOULD BE PREPARED TO EXPLAIN THE GROUNDS FOR CLAIMING THE EXEMPTION IN COURT ON THE DATE AND TIME SET FOR THE HEARING. YOU SHOULD BRING WHATEVER DOCUMENTS YOU HAVE TO SUPPORT YOUR CLAIM.
- 5. This is a notice, not legal advice. If you have any questions concerning your rights in this action, you should contact an attorney as soon as possible. If you are low income and cannot afford an attorney you may contact the nearest office of Idaho Legal Aid Services, Inc. to inquire if they can assist you.

IN THE DISTRICT COURT OF THE JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF

.....,)
 Plaintiff(s),) CASE NO.
 vs.) CLAIM OF EXEMPTION
,)
 Defendant(s).)
)

I claim an exemption from levy for the following described money and/or property:

a. Money, including money in a bank account, which was paid to me or my family as:

- Public assistance of any kind
- Social security or SSI
- Worker's compensation
- Unemployment benefits
- Child support
- Retirement, pension, or profit sharing benefits
- Military or veterans benefits
- Life insurance or other insurance
- Disability, illness, medical or hospital benefits

- Alimony, support or maintenance
- Annuity contract benefits
- Bodily injury or wrongful death awards
- Other money (describe)
- Wages (Do not check this box until you have first talked to your employer to see if he correctly calculated your exemption according to the formula under item 28 on the form entitled "SOME EXEMPTIONS TO WHICH YOU MAY BE ENTITLED." Then check this box only if you believe your employer's calculation is incorrect.)

b. Property:

- Professional books
- Burial plots
- Health aids
- Homestead, house, mobile home and related structures
- Jewelry
- Car, truck or motorcycle
- Tools and implements
- Appliances, furnishings, firearms, animals, musical instruments, books, clothes, family portraits and heirlooms
- Other property (describe)

.....
Defendant or
Representative

SECTION 2. That Section 36-1401, Idaho Code, be, and the same is hereby amended to read as follows:

36-1401. VIOLATIONS. (a) Infractions. Any person who pleads guilty to or is found guilty of a violation of the following provisions of the fish and game code or the following rules or proclamations promulgated pursuant thereto is guilty of an infraction:

1. Statutes.

- (A) Take, transport, use or have in possession bait fish as set forth in section 36-902(d), Idaho Code.
- (B) Chumming as set forth in section 36-902(e), Idaho Code.
- (C) Nonresident child under the age of fourteen (14) years fishing without a valid license and not accompanied by a valid license holder as set forth in section 36-401(a)2., Idaho Code.
- (D) Use or cut a hole larger than ten (10) inches in the ice for ice fishing as set forth in section 36-1509(a), Idaho Code.
- (E) Store fish without required tags/permits/statements as set forth in section 36-503, Idaho Code.
- (F) Own, possess or harbor any dog found running loose and which is tracking, pursuing, harassing or attacking a big game animal as set forth in section 36-1101(b)67. (B), Idaho Code.
- (G) Hunt migratory waterfowl without having in possession a signed federal migratory bird hunting stamp as set forth in section 36-1102(b)2., Idaho Code.
- (H) Hunt migratory game birds without having in possession a license validated for the federal migratory bird harvest information program permit as set forth in section 36-409(k), Idaho Code.
- (I) Trap in or on, destroy or damage any muskrat house as provided in section 36-1103(c), Idaho Code.
- (J) Hunt migratory game birds with a shotgun capable of holding more than three (3) shells as provided and incorporated in section 36-1102(b), Idaho Code.

2. Rules or Proclamations.

- (A) Fish from a raft or boat with motor attached in waters where motors are prohibited.
- (B) Fish with hooks larger than allowed in that water.
- (C) Fish with barbed hooks in waters where prohibited.
- (D) Exceed any established bag limit for fish by one (1) fish, except bag limits for anadromous fish, landlocked chinook salmon, kamloops rainbow trout, lake trout, or bull trout.
- (E) Fish with more than the approved number of lines or hooks.
- (F) Fail to leave head and/or tail on fish while fish are in possession or being transported.
- (G) Snag or hook fish other than in the head and fail to release, excluding anadromous fish.
- (H) Fail to attend fishing line and keep it under surveillance at all times.
- (I) Fail to comply with mandatory check and report requirements.
- (J) Fail to leave evidence of sex or species attached as required on game birds.
- (K) Hunt or take migratory game birds or upland game birds with shot exceeding the allowable size.
- (L) Fail to release, report or turn in nontarget trapped animals.
- (M) Fail to complete required report on trapped furbearer.
- (N) Fail to present required furbearer animal parts for inspection.
- (O) Fail to attach identification tags to traps.
- (P) Possess not more than one (1) undersized bass.
- (Q) Park or camp in a restricted area, except length of stay violations.
- (R) Fail to leave evidence of sex attached as required on game animals.

(b) Misdemeanors. Any person who pleads guilty to, is found guilty or is convicted of a violation of the provisions of this title or rules or proclamations promulgated pursuant thereto, or orders of the commission, except where an offense is expressly declared to be an infraction or felony, shall be guilty of a misdemeanor.

(c) Felonies. Any person who pleads guilty to, is found guilty or is convicted of a violation of the following offenses shall be guilty of a felony:

1. Knowingly and intentionally selling or offering for sale or exchange, or purchasing or offering to purchase or exchange, any wildlife, or parts thereof, which has been unlawfully killed, taken or possessed.
2. Releasing into the wild, without a permit from the director, any of the following wildlife, whether native or exotic: ungulates, bears, wolves, large felines, swine, or peccaries.
3. Unlawfully killing, possessing or wasting of any combination of numbers or species of wildlife within a twelve (12) month period which has a single or combined reimbursable damage assessment of more than one thousand dollars (\$1,000), as provided in section 36-1404, Idaho Code.
4. Conviction within ten (10) years of three (3) or more violations of the provisions of this title, penalties for which include either or both a mandatory license revocation or a reimbursable damage assessment.

SECTION 3. That Section 39-302, Idaho Code, be, and the same is hereby amended to read as follows:

39-302. DEFINITIONS. As used in this chapter, the terms defined in this section shall have the following meanings, unless the context clearly indicates another meaning:

(1) "Addiction" or "alcoholism" means a primary, chronic, neurobiological disease with genetic, psychosocial and environmental factors influencing its development and manifestations. It is characterized by behaviors that include one (1) or more of the following: impaired control over drug or alcohol use, compulsive use, continued use despite harm, and craving.

(2) "Alcoholic" means a person who has the disease of alcoholism, which is characterized by behaviors that include one (1) or more of the following: impaired control over alcohol use, compulsive use, continued use despite harm, and craving.

(3) "Approved private treatment facility" means a private agency meeting the standards prescribed in section 39-305(1), Idaho Code, and approved under the provisions of section 39-305(3), Idaho Code, and rules promulgated by the board of health and welfare pursuant to this chapter.

(4) "Approved public treatment facility" means a treatment agency operating under the provisions of this chapter through a contract with the department of health and welfare pursuant to section 39-304(7), Idaho Code, and meeting the standards prescribed in section 39-305(1), Idaho Code, and approved pursuant to section 39-305(3), Idaho Code, and rules promulgated by the board of health and welfare pursuant to this chapter.

(5) "Department" means the Idaho department of health and welfare.

(6) "Director" means the director of the Idaho department of health and welfare.

(7) "Drug addict" means a person who has the disease of addiction, which is characterized by behaviors that include one (1) or more of the following: impaired control over drug use, compulsive use, continued use despite harm, and craving.

(8) "Incapacitated by alcohol or drugs" means that a person, as a result of the use of alcohol or drugs, is unconscious or has his judgment otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment.

(9) "Incompetent person" means a person who has been adjudged incompetent by an appropriate court within this state.

~~(10) "Interagency committee" means the interagency committee on substance abuse prevention and treatment as provided for in section 39-303, Idaho Code.~~

~~(11) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of drugs or alcohol.~~

(121) "Recovery support services" means those ancillary, nonclinical services needed for a client to maintain substance abuse or addiction recovery. These services may include transportation, childcare, drug testing, safe and sober housing and care management.

(132) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(143) "Treatment" means the broad range of emergency, outpatient, intensive outpatient, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation and career counseling, which may be extended to alcoholics and intoxicated persons and/or drug addicts.

SECTION 4. That Section 39-303A, Idaho Code, be, and the same is hereby amended to read as follows:

39-303A. REGIONAL ADVISORY COMMITTEES. ~~(1)~~ Regional advisory committees that address substance abuse issues shall be established by the department of health and welfare. The regional advisory committees shall be composed of regional directors of the department or their designees, regional substance abuse program staff and representatives of other appropriate public and private agencies. Members shall be appointed by the respective regional directors for terms determined by the regional director. The commit-

tees shall meet at least quarterly at the call of the chair, who shall also be appointed by the regional director. The committees shall provide for the coordination of, and exchange of information on, all programs relating to alcoholism and drug addiction, and shall act as liaison among the departments engaged in activities affecting alcoholics and intoxicated persons.

~~(2) The chairpersons of each regional advisory committee shall collectively meet at least annually and elect one (1) of its members to serve as the regional advisory committees' representative on the interagency committee. Each regional advisory committee shall provide to the regional advisory committees' representative, before each regular meeting of the interagency committee, a report addressing local substance abuse program needs and other information as it pertains to the treatment and prevention of alcoholism and other drug addiction or as required by the chairperson of the interagency committee. The regional advisory committees' representative shall be responsible for communicating information from these reports at each regular meeting of the interagency committee.~~

SECTION 5. That Section 39-304, Idaho Code, be, and the same is hereby amended to read as follows:

39-304. COMPREHENSIVE PROGRAM FOR TREATMENT. The Idaho department of health and welfare is hereby designated as the state substance abuse authority.

(1) The department shall establish a comprehensive and coordinated program for the treatment of alcoholics, intoxicated persons and drug addicts. ~~The interagency committee shall direct the department in the establishment and in the content of this program.~~

(2) The program shall include:

- (a) Emergency detoxification treatment and medical treatment directly related thereto provided by a facility affiliated with or part of the medical service of a general hospital;
- (b) Inpatient treatment;
- (c) Intensive outpatient treatment;
- (d) Outpatient treatment;
- (e) Community detoxification provided by an approved facility; and
- (f) Recovery support services.

(3) The department shall provide for adequate and appropriate treatment for persons admitted pursuant to section 39-307, Idaho Code. Treatment shall not be provided at a correctional institution except for inmates.

(4) The department shall maintain, supervise, and control all facilities operated by it. The administrator of each such facility shall make an annual report of its activities to the director in the form and manner the director specifies.

(5) All appropriate public and private resources shall be coordinated with and utilized in the program whenever possible.

(6) The department shall prepare, publish and distribute annually a list of all approved public and private treatment facilities.

(7) The department may contract for the use of any facility as an approved public treatment facility if the director considers this to be an effective and economical course to follow.

(8) The program shall include an individualized treatment plan prepared and maintained for each client.

SECTION 6. That Section 41-1941, Idaho Code, be, and the same is hereby amended to read as follows:

41-1941. ANNUITY SALES TO CONSUMERS -- DISCLOSURES. (1) In this section, the following definitions shall apply unless the context otherwise requires:

(a) "Contract owner" means the owner named in the annuity contract or certified holder in the case of a group annuity contract.

(b) "Determinable elements" means elements that are derived from processes or methods that are guaranteed at issue and that are not subject to company discretion, but where the values or amounts cannot be determined until some point after issue. These elements may include the premiums, credited interest rates (including any bonus), benefits, values, noninterest based credits, charges or elements of formulas used to determine any of these. An element is considered determinable if it is calculated from underlying determinable elements only or from both determinable and guaranteed elements.

(c) "Generic name" means a short title descriptive of the annuity contract being applied for or illustrated such as "single premium deferred annuity."

(d) "Guaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, noninterest based credits, charges or elements of formulas used to determine any of these, that are promised and determined at issue. An element is considered guaranteed if all of the underlying elements that go into its calculation are guaranteed.

(e) "Insurance producer" or "producer" has the same meaning as in chapter 10, title 41, Idaho Code.

(f) "Nonguaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, noninterest based credits, charges or elements of formulas used to determine any of these, that are subject to company discretion and that are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

(g) "Structured settlement annuity" means a qualified funding asset as defined in section 130(d) of the Internal Revenue Code or an annuity that would be a qualified funding asset under section 130(d) of the Internal Revenue Code but for the fact that it is not owned by an assignee under a qualified assignment.

(2) The provisions of this section shall apply to all group and individual annuity contracts and certificates except:

(a) Registered or nonregistered variable annuities or other registered products;

(b) Immediate and deferred annuities that contain no nonguaranteed elements;

(c) Annuities used to fund:

(i) An employee pension plan that is covered by the employee retirement income security act of 1974, title 29, U.S.C. sections 1001 through 1461;

(ii) A plan described in section 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of the employee retirement income security act of 1974, is established or maintained by an employer;

(iii) A governmental or church plan as defined in section 414 of the Internal Revenue Code or a deferred compensation plan of a state or local government or a tax exempt organization pursuant to section 457 of the Internal Revenue Code; or

(iv) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

(d) Structured settlement annuities.

(3) If the application for an annuity contract is taken in a face-to-face meeting, the applicant, at or before the time of application, shall be given both the disclosure document and the buyer's guide in the form prescribed by the director. The disclosure document shall be dated and signed

by the prospective annuity owner and producer and the company shall maintain a signed copy for the life of the contract.

(4) If the application for an annuity contract is taken by means other than in a face-to-face meeting, the applicant shall be sent both the disclosure document and the buyer's guide in the manner and form prescribed by the director no later than five (5) business days after the completed application is received by the insurer.

(5) A solicitation for an annuity contract provided in other than a face-to-face meeting shall include a statement that the proposed applicant may contact the insurer for a free annuity buyer's guide.

(6) If the disclosure document and buyer's guide are not provided at or before the time of application, a free look period of not less than twenty (20) days shall be provided for the applicant to return the annuity contract without penalty. This free look period shall run concurrently with any other free look period provided in statute.

(7) At minimum, the following information shall be included in the disclosure document required to be provided under this section:

(a) The generic name of the contract, the company product name, if different, the form number and the fact that it is an annuity;

(b) The insurer's name and address;

(c) A description of the contract and its benefits, emphasizing its long-term nature and including the following examples where appropriate:

(i) The guaranteed, nonguaranteed and determinable elements of the contract, their limitations, if any, and an explanation of how they operate;

(ii) An explanation of the initial crediting rate, specifying any bonus or introductory portion, the duration of the rate and the fact that rates may change from time to time and are not guaranteed;

(iii) The periodic income options both on a guaranteed and nonguaranteed basis;

(iv) Any value reductions caused by withdrawals from or surrender of the contract;

(v) How values in the contract can be accessed;

(vi) The death benefit, if available, and how it will be calculated;

(vii) A summary of the federal tax status of the contract and any penalties applicable on withdrawal of values from the contract; and

(viii) The impact of any rider, such as a long-term care rider.

(d) The specific dollar amount or percentage charges and fees shall be listed with an explanation of how they apply;

(e) Information about the current guaranteed rate for new contracts that contains a clear notice that the rate is subject to change;

(f) Whenever projections for nonguaranteed elements of a contract are provided in the disclosure document, equal prominence shall be given to guaranteed elements; and

(g) Terms used in the disclosure document shall be defined in clear and concise language that facilitates the understanding of a typical person within the segment of the public to which the disclosure document is directed.

(8) For annuities in the payout period with changes in nonguaranteed elements and for the accumulation period of a deferred annuity, the insurer shall provide each contract owner with a report, at least annually, on the status of the contract. Such report shall contain at minimum the following information:

(a) The beginning and end dates of the current report period;

(b) The accumulation and cash surrender value, if any, at the end of the previous report period and at the end of the current report period;

(c) The total amounts, if any, that have been credited, charged to the contract value or paid during the current report period; and

(d) The amount of outstanding loans, if any, as of the end of the current report period.

(9) The director may promulgate rules pursuant to this section including, but not limited to, more fully implementing model rules or laws developed by the national association of insurance commissioners that provide standards for the disclosure of certain minimum information in connection with the sale of annuity contracts.

(10) Nothing in this section shall be construed to create or imply a private cause of action for a violation of the provisions of this section or rules promulgated pursuant to this section.

SECTION 7. That Section 56-234, Idaho Code, be, and the same is hereby amended to read as follows:

56-234. LEGISLATIVE INTENT. It is hereby declared by the legislature that, in keeping with current state and national goals and best practice, increasing numbers of persons with developmental disabilities are being discharged to community facilities or private residences as an alternative to large public institutions licensed as intermediate care facilities for persons with intellectual disabilities. Such deinstitutionalization is highly desirable since it can lead to a fuller, richer and more independent life for persons with developmental disabilities. Recognizing that every individual has unique needs and differing abilities, the purpose of the following provisions is to clarify the department of health and welfare's duties and responsibilities with respect to persons with developmental disabilities, who are or may become residents of the southwest Idaho state school and hospital treatment center, a public institution licensed for nine (9) or more beds as an intermediate care facility for persons with intellectual disabilities. The following provisions shall be liberally construed to accomplish these purposes.

SECTION 8. That Section 56-234A, Idaho Code, be, and the same is hereby amended to read as follows:

56-234A. DEFINITIONS. As used in sections 56-234 through 56-235E, Idaho Code:

(1) "Admission-discharge committee" means an interdisciplinary team of at least three (3) individuals designated by the director to evaluate persons as required by the provisions of sections 56-234 through 56-235E, Idaho Code. Each committee member must be specially qualified by training and experience in the diagnosis and treatment of persons with a developmental disability.

(2) "Certified family home" means a family home as defined in section 39-3502, Idaho Code.

(3) "Community facility" means a privately owned or operated nursing facility, intermediate care facility for persons with intellectual disabilities, licensed residential or assisted living facility, other organization licensed, recognized, or certified by the department to provide care or treatment to persons with developmental disabilities, or a publicly owned or operated facility licensed for eight (8) beds or less as an intermediate care facility for persons with intellectual disabilities.

(4) "Department" means the Idaho department of health and welfare.

(5) "Developmental disabilities" means a chronic disability of a person as defined in section 66-402, Idaho Code.

(6) "Director" means the director of the Idaho department of health and welfare or his designee.

(7) "Discharge" means an admission-discharge committee has determined that there is an available community facility or private residence that is least restrictive, appropriate and consistent with the needs of the individual.

(8) "Medically fragile" means an individual with a developmental disability and a chronic medical condition that is characterized by periods of acute exacerbation or potentially life-threatening episodes and that may require frequent hospitalizations or prolonged recuperation periods and ongoing monitoring and assistance by a licensed registered nurse.

(9) "Private residence" means a certified family home or a single family dwelling or apartment in a multiple dwelling or apartment complex that is used by an individual as a place of abode and that is not used for commercial purposes.

(10) "Resident" means an individual who is admitted to or resides at the southwest Idaho state school and hospital treatment center.

(11) "Transfer" means relocating and moving a person who is a resident of the southwest Idaho state school and hospital treatment center from that institution to a community facility or private residence or from one (1) community facility or private residence to another. Transfer does not include relocating or moving a resident of the southwest Idaho state school and hospital treatment center between rooms or beds within the southwest Idaho state school and hospital treatment center.

SECTION 9. That Section 56-235A, Idaho Code, be, and the same is hereby amended to read as follows:

56-235A. PROHIBITIONS, RESTRICTIONS AND LIMITATIONS ON ADMISSION. (1) The southwest Idaho state school and hospital treatment center shall not admit, accept or receive any person unless an admission-discharge committee determines that:

(a) The individual has a developmental disability;

(b) The individual meets the level of care requirements and active treatment requirements for admission to an intermediate care facility for persons with intellectual disabilities;

(c) All community facilities, options and supports have been exhausted, and there is no available community facility or private residence that is least restrictive, appropriate and consistent with the needs of the individual; and

(d) The southwest Idaho state school and hospital treatment center is the least restrictive available residential placement consistent with the needs of the individual after considering all available and appropriate community facilities and private residences.

(2) The director may limit admissions and establish admission priorities to the southwest Idaho state school and hospital treatment center through rulemaking in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department to the facility. The southwest Idaho state school and hospital treatment center may refuse any applicant for voluntary admission.

(3) Subsections (1) and (2) of this section do not apply to:

(a) Temporary emergency admissions or placements for crisis stabilization only, for up to ninety (90) days, that are preauthorized by the director; or

(b) Admissions or placements made by the director pursuant to section 66-406, Idaho Code.

SECTION 10. That Section 56-235B, Idaho Code, be, and the same is hereby amended to read as follows:

56-235B. DISCHARGE PLANNING -- AUTHORIZATION TO DISCHARGE. The director may discharge a resident of the southwest Idaho state school and hospital treatment center on such terms and conditions as the director may determine whenever an admission-discharge committee determines there is an available community facility or private residence that is least restrictive, appropriate and consistent with the individual's needs. The director shall use reasonable efforts to discharge a resident to a community facility or private residence where the individual can be readily visited by those persons interested in his well-being.

SECTION 11. That Section 56-235C, Idaho Code, be, and the same is hereby amended to read as follows:

56-235C. NOTICE OF DISCHARGE -- REQUEST FOR HEARING. (1) Before a discharge plan is implemented, the resident and the resident's spouse, guardian, adult next of kin or friend, if any, shall be given an opportunity to participate in the development and review of the admission-discharge committee's discharge plan.

(2) If, after reasonable efforts have been exhausted, the resident or the resident's spouse, guardian, adult next of kin or friend, if any, does not agree with the admission-discharge committee's discharge plan, ninety (90) days prior to discharge, written notice shall be filed with the committing court, if any, and served by registered or certified mail upon the resident, resident's attorney, and either the resident's spouse, guardian, adult next of kin or friend, if any. The written notice must include a statement advising the resident of the right to request a hearing by the director and must also include a statement advising the resident of the right to judicial review.

(3) Within fifteen (15) days from receipt of the notice of discharge, the resident may serve a written request for hearing upon the director. Upon receipt of such request, the director shall fix a date for hearing, which date shall not be more than thirty (30) days from receipt of the request, and shall give the resident at least fifteen (15) days' written notice of said hearing date. Within thirty (30) days after the conclusion of the hearing, the director shall notify the resident in writing by registered or certified mail of his decision. A transfer shall not be implemented during any period in which a request for hearing is pending and undecided by the director. If no request for hearing is made within fifteen (15) days from receipt of the notice of discharge, the director may discharge the resident.

(4) The director shall periodically monitor the adjustment of the former resident to his transfer to a community facility or private residence. If within ninety (90) days following a transfer to a community facility or private residence, an admission-discharge committee determines that the former resident is not adjusting to the transfer and there is no other available community facility or private residence least restrictive, appropriate and consistent with the needs of the former resident, the director may make the determination that the former resident be readmitted to the southwest Idaho state school and hospital treatment center in accordance with section 56-235A, Idaho Code.

SECTION 12. That Section 56-264, Idaho Code, be, and the same is hereby amended to read as follows:

56-264. RULEMAKING AUTHORITY. In addition to the rulemaking authority granted to the department in this chapter and elsewhere in Idaho Code regarding the medicaid program and notwithstanding any other Idaho law to the con-

trary, the department shall have the authority to promulgate rules regarding:

(1) Medical services to:

(a) Change the primary case management paid to providers to a tiered payment based on the health needs of the populations that are managed. A lower payment is to be made for healthier populations and a higher payment is to be made for individuals with special needs, disabilities or are otherwise at risk. An incentive payment is to be provided to practices that provide extended hours beyond the normal business hours that help reduce unnecessary higher-cost emergency care;

(b) Provide that a healthy connections referral is no longer required for urgent care as an alternative to higher cost but unnecessary emergency services; and

(c) Eliminate payment for collateral contact;

(2) Mental health services to:

(a) Eliminate administrative requirements for a functional and intake assessment and add a comprehensive diagnostic assessment addendum;

(b) Restrict duplicative skill training from being provided by a mental health provider when the individual has chosen to receive skill training from a developmental disability provider. The individual may choose to receive skill training from a mental health provider but can not receive skill building simultaneously from two (2) providers;

(c) Increase the criteria for accessing the partial care benefit and restrict to those individuals who have a diagnosis of serious and persistent mental illness;

(d) Eliminate the requirement for new annual plans; and

(e) Direct the department to develop an effective management tool for psychosocial rehabilitation services;

(3) In-home care services to:

(a) Eliminate personal care service coordination; and

(b) Restrict duplicative nursing services from a home health agency when nursing services are being provided through the aged and disabled waiver;

(4) Vision services to:

(a) Align coverage requirements for contact lenses with commercial insurers and other state medicaid programs; and

(b) Limit coverage for adults based on chronic care criteria;

(5) Audiology services to eliminate audiology benefits for adults;

(6) Developmental disability services to:

(a) Eliminate payment for collateral contact;

(b) Eliminate supportive counseling benefit;

(c) Reduce annual assessment hours from twelve (12) to four (4) hours and exclude psychological and neuropsychological testing services within these limits;

(d) Reduce plan development payment from twelve (12) to six (6) hours and reduce requirements related to adult developmental disabilities plan development;

(e) Restrict duplicative skill training from being provided by a developmental disabilities provider when an individual has chosen to receive skill training from his mental health provider;

(f) Implement changes to certified family homes pursuant to chapter 315, title 39, Idaho Code, to:

(i) Create approval criteria and process for approving new certified family homes;

(ii) Recertify current certified family homes; and

(iii) Develop applicant and licensing fees to cover certifying and recertifying costs;

(g) Move individualized adult budgets to a tiered approach as currently used by the department for children's developmental therapy; and

(7) Institutional care services to discharge individuals from institutional settings where such services are no longer necessary.

SECTION 13. That Section 57-813, Idaho Code, be, and the same is hereby amended to read as follows:

57-813. CATASTROPHIC HEALTH CARE COST ACCOUNT. (1) There is hereby created in the state treasury an account to be designated the "Catastrophic Health Care Cost Account." The account shall be used solely for payment of insurance premiums, payment of eligible claims beyond the ~~ten~~ eleven thousand dollar (\$~~10~~11,000) county deductible or payment of the expenses of administering the catastrophic health care cost account.

(2) The administrator of the catastrophic health care cost program may retain counsel.

(3) All moneys placed in the account are hereby perpetually appropriated to the administrator of the catastrophic health care cost program for purposes of this program. All expenditures from the account shall be paid out in warrants drawn by the state controller upon presentation of proper vouchers from the administrator. Pending use, surplus moneys in the account shall be invested by the state treasurer in the same manner as prescribed in section 67-1210, Idaho Code, with respect to surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the account.

SECTION 14. That Section 67-821, Idaho Code, be, and the same is hereby amended to read as follows:

67-821. COORDINATION OF POLICY AND PROGRAMS RELATED TO DRUG AND SUBSTANCE ABUSE. (1) There is hereby established in the office of the governor the "Office of Drug Policy." The administrator of the office of drug policy shall be the official in the state designated to oversee and execute the coordination of all drug and substance abuse programs within the state of Idaho. The administrator shall be appointed by and shall serve at the pleasure of the governor, and shall be subject to confirmation by the state senate.

(2) The office of drug policy shall:

(a) Cooperate and consult with counties, cities and local law enforcement on programs, policies and issues in combating Idaho's illegal drug and substance abuse problem;

(b) Serve as a repository of agreements, contracts and plans concerning programs for combating illegal drug and substance abuse from community organizations and other relevant local, state and federal agencies and shall facilitate the exchange of this information and data with relevant interstate and intrastate entities;

(c) Provide input and comment on community, tribal and federal plans, agreements and policies relating to illegal drug and substance abuse; and

(d) Coordinate public and private entities to develop, create and promote statewide campaigns to reduce or eliminate substance abuse.

~~(3) The administrator shall act as chairperson of the interagency committee on substance abuse prevention and treatment, as created in section 39-303, Idaho Code, to ensure that the interagency committee coordinates and directs all state entities regarding substance abuse prevention and treatment delivery services statewide.~~

Approved March 23, 2012.

CHAPTER 108
(S.B. No. 1299)

AN ACT

RELATING TO MILITARY EDUCATION TRAINING AND SERVICE; AMENDING CHAPTER 37, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-3727, IDAHO CODE, TO PROVIDE THAT THE STATE BOARD OF EDUCATION, THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO, THE BOARD OF TRUSTEES OF CERTAIN COMMUNITY COLLEGES AND THE STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION SHALL DEVELOP POLICIES RELATING TO THE AWARD OF ACADEMIC CREDIT FOR CERTAIN MILITARY EDUCATION, TRAINING OR SERVICE, TO PROVIDE FOR COOPERATION IN THE DEVELOPMENT OF SUCH POLICIES AND TO AUTHORIZE RULEMAKING; AND AMENDING CHAPTER 26, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2620, IDAHO CODE, TO PROVIDE THAT EACH OF THE PROFESSIONAL AND OCCUPATIONAL LICENSING BOARDS WITHIN THE DEPARTMENT OF SELF-GOVERNING AGENCIES MAY ACCEPT CERTAIN MILITARY EDUCATION, TRAINING OR SERVICE TOWARD THE QUALIFICATIONS TO RECEIVE LICENSURE, CERTIFICATION OR REGISTRATION AND TO AUTHORIZE RULEMAKING.

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

SECTION 1. That Chapter 37, 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 33-3727, Idaho Code, and to read as follows:

33-3727. MILITARY EDUCATION, TRAINING AND SERVICE -- AWARD OF ACADEMIC CREDIT -- DEVELOPMENT OF POLICIES. Notwithstanding the provisions of section 33-107(6)(b), Idaho Code, the state board of education, the board of regents of the university of Idaho, a board of trustees of a community college established pursuant to the provisions of section 33-2106, Idaho Code, and the state board for professional-technical education shall develop policies relating to the award of academic credit for education, training or service completed by an individual as a member of the armed forces or reserves of the United States, the national guard of any state, the military reserves of any state or the naval militia of any state, where such education, training or service is determined to satisfy such established policies. The boards shall work cooperatively with one another and with other state agencies as needed in the development of such policies. The boards are authorized to adopt rules as necessary for the administration of the provisions of this section.

SECTION 2. That Chapter 26, 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 67-2620, Idaho Code, and to read as follows:

67-2620. MILITARY EDUCATION TRAINING AND SERVICE -- QUALIFICATIONS FOR LICENSURE, CERTIFICATION OR REGISTRATION. Each of the professional and occupational licensing boards within the department of self-governing agencies may accept military education, training or service by an individual as a member of the armed forces or reserves of the United States, the national guard of any state, the military reserves of any state or the naval militia of any state toward the qualifications to receive licensure, certification or registration. Each professional and occupational licensing board is authorized to promulgate rules to implement the provisions of this section.

Approved March 23, 2012.

CHAPTER 109
(S.B. No. 1340)

AN ACT

RELATING TO COSTS OF COURT ORDERED TESTING; AMENDING SECTION 19-2608, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE COSTS OF CERTAIN COURT ORDERED TESTING; AMENDING CHAPTER 39, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-3922, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR THE PAYMENT OF CERTAIN COURT ORDERED TESTS AND TO PROVIDE FOR A WAIVER OF SUCH REQUIREMENTS; AMENDING SECTION 20-225, IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO COURT ORDERED COSTS AND FEES; AND AMENDING SECTION 31-3201D, IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO COURT ORDERED COSTS AND FEES.

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

SECTION 1. That Section 19-2608, Idaho Code, be, and the same is hereby amended to read as follows:

19-2608. PAYMENT OF COURT ORDERED TESTS OF BREATH OR BODILY FLUIDS. Whenever a court orders testing of breath or bodily fluids as a condition of probation, such costs for the tests shall be paid for by the probationer in addition to any supervision fee authorized under section 20-225 or 31-3201D, Idaho Code, to the governmental agency providing the testing, provided the court may waive this requirement upon a showing of cause.

SECTION 2. That Chapter 39, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-3922, Idaho Code, and to read as follows:

19-3922. PAYMENT OF COURT ORDERED TESTS OF BREATH OR BODILY FLUID. Whenever a court orders testing of breath or bodily fluids as a condition of probation, such costs for the tests shall be paid for by the probationer in addition to any supervision fee authorized under section 31-3201D, Idaho Code, to the agency providing the testing, provided the court may waive this requirement upon a showing of cause.

SECTION 3. That Section 20-225, Idaho Code, be, and the same is hereby amended to read as follows:

20-225. PAYMENT FOR COST OF SUPERVISION. Any person under state probation or parole supervision shall be required to contribute not more than seventy-five dollars (\$75.00) per month as determined by the board of correction. Costs of supervision are the direct and indirect costs incurred by the department of correction to supervise probationers and parolees, including tests to determine drug and alcohol use, books and written materials to support rehabilitation efforts, and monitoring of physical location through the use of technology. Any failure to pay such contribution shall constitute grounds for the revocation of probation by the court or the revocation of parole by the commission for pardons and parole. The division of probation and parole in the department of correction may exempt a person from the payment of all or any part of the foregoing contribution if it finds any of the following factors to exist:

(1) The offender has diligently attempted but been unable to obtain employment.

(2) The offender has a disability affecting employment, as determined by a physical, psychological or psychiatric examination acceptable to the division of probation and parole.

Money collected as a fee for services will be placed in the probation and parole receipts revenue fund, which is hereby created in the dedicated fund in the state treasury, and utilized to provide supervision for clients. Moneys in the probation and parole receipts revenue fund may be expended only after appropriation by the legislature. This section shall not restrict the court from ordering the payment of other costs and fees that, by law, may be imposed on persons who have been found guilty of or have pled guilty to a criminal offense, including those who have been placed on probation or parole.

SECTION 4. That Section 31-3201D, Idaho Code, be, and the same is hereby amended to read as follows:

31-3201D. COUNTY MISDEMEANOR PROBATION SUPERVISION FEE. (1) Any person under a supervised probation program for a misdemeanor offense shall be required to pay an amount not more than the maximum monthly felony probation or parole supervision fee set forth in section 20-225, Idaho Code, per month, or such lesser sum as determined by the administrative judge of the judicial district, as a misdemeanor probation supervision fee. Any failure to pay such fee shall constitute grounds for the revocation of probation by the court, but this shall not be the exclusive remedy for its collection. The court for good cause may exempt a person from the payment of all or any part of the foregoing fee.

(2) Any fee paid under this section on or after July 1, 2008, and regardless of whether the underlying judgment of conviction, withheld judgment or order imposing probation was entered before or after that date, shall be paid to the clerk of the district court, who shall pay the first one dollar (\$1.00) of each monthly payment to the state treasurer for deposit in the peace officers standards and training fund authorized in section 19-5116, Idaho Code, to help offset the costs to counties for the basic training, continuing education and certification of misdemeanor probation officers whether those officers are employees of or by private sector contract with a county; the clerk of the district court shall deposit the remainder of each monthly payment into the county misdemeanor probation fund which is hereby created in each county, or at the option of the board of county commissioners, deposited in the county justice fund to be used for the purposes described in this section. Moneys from this fee may be accumulated from year to year and shall be expended exclusively for county misdemeanor probation services and related purposes.

(3) This section shall not restrict the court from ordering the payment of other costs and fees that, by law, may be imposed on persons who have been found guilty of or have pled guilty to a criminal offense, including those who have been placed on probation or parole.

Approved March 23, 2012.

CHAPTER 110
(S.B. No. 1368)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXEMPTING APPROPRIATION OBJECT TRANSFER LIMITATIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Office of the Lieutenant Governor from the General Fund, the following amounts to be expended for the designated expense classes, for the period July 1, 2012, through June 30, 2013:

FOR:

Personnel Costs	\$130,600
Operating Expenditures	<u>12,200</u>
TOTAL	\$142,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of the Lieutenant Governor is authorized no more than three (3) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EXEMPTIONS FROM OBJECT TRANSFER LIMITATIONS. For fiscal year 2013, the Office of the Lieutenant Governor is hereby exempted from the provisions of Section 67-3511(1) and (3), Idaho Code, allowing unlimited transfers between object codes, for all moneys appropriated to it for the period July 1, 2012, through June 30, 2013. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 4. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved March 23, 2012.

CHAPTER 111
(H.B. No. 464)

AN ACT

RELATING TO OIL AND GAS; AMENDING SECTION 47-315, IDAHO CODE, TO PROVIDE ADDITIONAL PROVISIONS RELATING TO THE PUBLIC INTEREST; AMENDING SECTION 47-317, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT TO OCCUPY THE FIELD OF THE REGULATION OF OIL AND GAS EXPLORATION AND PRODUCTION, TO PROVIDE AN EXCEPTION, TO PROVIDE PROVISIONS LIMITING LOCAL RESTRICTIONS RELATING TO OIL AND GAS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-319, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE AUTHORITY OF THE OIL AND GAS CONSERVATION COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-233, IDAHO CODE, TO PROVIDE THAT CERTAIN USES OF LOW TEMPERATURE GEOTHERMAL RESOURCES ARE NOT SUBJECT TO THE PROVISIONS OF A CERTAIN IDAHO CODE CHAPTER AND TO GRANT THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES THE AUTHORITY TO INITIATE A CONTESTED CASE UPON CERTAIN CONDITIONS; AMENDING SECTION 42-3902, IDAHO CODE, TO FURTHER DEFINE TERMS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 42-4003, IDAHO CODE, TO PROVIDE THAT CERTAIN USES OF GROUND WATER CLASSIFIED AS A GEOTHERMAL RESOURCE OR MATERIAL MEDIUM ARE NOT SUBJECT TO THE PROVISIONS OF A CERTAIN IDAHO CODE CHAPTER, TO GRANT THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES THE AUTHORITY TO INITIATE A CONTESTED CASE UPON CERTAIN CONDITIONS AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 47-315, Idaho Code, be, and the same is hereby amended to read as follows:

47-315. PUBLIC INTEREST. It is declared to be in the public interest to foster, encourage and promote the development, production and utilization of natural resources of oil and gas in the state of Idaho in such a manner as will prevent waste; to provide for uniformity and consistency in the regulation of the production of oil and gas throughout the state of Idaho; to authorize and to provide for the operations and development of oil and gas properties in such a manner that a greater ultimate recovery of oil and gas may be obtained and that the correlative rights of all owners be fully protected; to encourage, authorize and provide for voluntary agreements for cycling, recycling, pressure maintenance and secondary recovery operations in order that the greatest possible economic recovery of oil and gas may be obtained within the state to the end that the land owners, the royalty owners, the producers and the general public may realize and enjoy the greatest possible good from these vital natural resources.

SECTION 2. That Section 47-317, Idaho Code, be, and the same is hereby amended to read as follows:

47-317. OIL AND GAS CONSERVATION COMMISSION CREATED -- POWERS -- LIMIT ON LOCAL RESTRICTIONS -- ATTORNEY GENERAL. (a₁) There is hereby created an oil and gas conservation commission of the state of Idaho which shall consist of the state board of land commissioners.

(b₂) The commission shall have and is hereby given jurisdiction and authority over all persons and property, public and private, necessary to enforce the provisions of this act, and shall have power and authority to make and enforce rules, regulations and orders, and do whatever may reasonably be necessary to carry out the provisions of this act. Any delegation of authority to any other state officer, board or commission to administer any and all

other laws of this state relating to the conservation of oil and gas, ~~or either of them~~ is hereby rescinded and withdrawn and such authority is hereby unqualifiedly conferred upon the commission, as herein provided. Any person, or the attorney general, on behalf of the state, may apply for a hearing before the commission, or the commission may initiate proceedings, upon any question relating to the administration of this act, and jurisdiction is hereby conferred upon the commission to hear and determine the same and enter its rule, regulation or order with respect thereto.

(3) It is the intent of the legislature to occupy the field of the regulation of oil and gas exploration and production with the limited exception of the exercise of planning and zoning authority granted cities and counties pursuant to chapter 65, title 67, Idaho Code.

(4) To implement the purpose of the oil and gas conservation act, and to advance the public interest in the orderly development of the state's oil and gas resources, while at the same time recognizing the responsibility of local governments to protect the public health, safety and welfare, it is herein provided that:

(a) The commission will notice the respective city or county with jurisdiction upon receipt of an application and will remit, electronically, a copy of all application materials.

(b) No ordinance, resolution, requirement or standard of a city, county or political subdivision, except a state agency with authority, shall actually or operationally prohibit the extraction of oil and gas; provided however, that extraction may be subject to reasonable local ordinance provisions, not repugnant to law, which protect public health, public safety, public order or which prevent harm to public infrastructure or degradation of the value, use and enjoyment of private property. Any ordinance regulating extraction enacted pursuant to chapter 65, title 67, Idaho Code, shall provide for administrative permitting under conditions established by ordinance, not to exceed twenty-one (21) days, unless extended by agreement of the parties or upon good cause shown.

(c) No ordinance, resolution, requirement or standard of a city, county or political subdivision, except a state agency with authority, shall actually or operationally prohibit construction or operation of facilities and infrastructure needed for the post-extraction processing and transport of gas and oil. However, such facilities and infrastructure shall be subject to local ordinances, regulations and permitting requirements, not repugnant to law, as provided in chapter 65, title 67, Idaho Code.

(e5) The commission may sue and be sued in its administration of this act in any state or federal district court in the state of Idaho having jurisdiction of the parties or of the subject matter.

(d6) The attorney general shall act as the legal advisor of the commission and represent the commission in all court proceedings and in all proceedings before it, and in any proceeding to which the commission may be a party before any department of the federal government.

SECTION 3. That Section 47-319, Idaho Code, be, and the same is hereby amended to read as follows:

47-319. LAND SUBJECT TO ACT -- AUTHORITY OF COMMISSION. (a1) This act shall apply to all lands located in the state, however owned, including any lands owned or administered by any government or any agency or political subdivision thereof, over which the state under its police power, has jurisdiction.

(b2) The commission is authorized and it is its duty to regulate the exploration for and production of oil and gas, prevent waste of oil and gas and to protect correlative rights, and otherwise to administer and enforce this

act. It has jurisdiction over all persons and property necessary for ~~that~~ such purposes. In the event of a conflict, the duty to prevent waste is paramount.

(e~~3~~) The commission is authorized to make such investigations as it deems proper to determine whether action by the commission in discharging its duties is necessary.

(d~~4~~) Without limiting its general authority, the commission shall have the specific authority: ~~To~~ require:

(1a) ~~i~~Identification of ownership of oil or gas wells, producing leases, tanks, plants, structures, and facilities for the transportation or refining of oil and gas;

(2b) ~~t~~The taking and preservation of samples and the making and filing with the commission of true and correct copies of well logs and directional surveys both in form and content as prescribed by the commission; provided, however, that logs of exploratory or wildcat wells marked confidential shall be subject to disclosure according to chapter 3, title 9, Idaho Code. And provided further, that after four (4) months from the effective date of this act, the commission may require the owner of a well theretofore drilled for oil or gas to file within four (4) months of such order a true and correct copy of the log or logs of such well;

(3c) ~~t~~The drilling, casing, operation and plugging of wells in such manner as to prevent: (a~~i~~) the escape of oil or gas out of one (1) pool into another; (b~~ii~~) the detrimental intrusion of water into an oil or gas pool that is avoidable by efficient operations; (c~~iii~~) the pollution of fresh water supplies by oil, gas, or salt water; (d~~iv~~) blow-outs, cavings, seepages, and fires; and (e~~v~~) waste as hereinabove defined;

(4d) ~~t~~The taking of tests of oil or gas wells;

(5e) ~~t~~The furnishing of a reasonable performance bond with good and sufficient surety, conditioned upon the performance of the duty to comply with the requirements of this law and the regulations of the commission with respect to the drilling, maintaining, operating and plugging of each well drilled for oil or gas;

(6f) ~~t~~That the production from wells be separated into gaseous and liquid hydrocarbons, and that each be measured by means and upon standards that may be prescribed by the commission;

(7g) ~~t~~That wells not be operated with inefficient gas-oil or water-oil ratios, and to fix these ratios, and to limit production from wells with inefficient gas-oil or water-oil ratios;

(8h) ~~m~~Metering or other measuring of oil, gas, or product;

(9i) ~~t~~That every person who produces oil ~~or~~ and gas in the state keep and maintain for a period of five (5) years complete and accurate records of the quantities thereof, which records, or certified copies thereof, shall be available for examination by the commission or its agents at all reasonable times within said period, and that every such person file with the commission such reasonable reports as it may prescribe with respect to such oil or gas production; and

(10j) ~~t~~The filing of reports of plats with the commission that it may prescribe.

(5) Without limiting its general authority, and without limiting the authority of other state agencies or local government as provided by law, the commission shall have the specific authority ~~t~~To regulate:

(1a) ~~t~~The drilling and plugging of wells and the compression or dehydration of produced oil and gas, and all other operations for the production of oil ~~or~~ and gas;

(2b) ~~t~~The shooting and treatment of wells;

(3c) ~~t~~The spacing or locating of wells;

(4d) ~~o~~Operations to increase ultimate recovery, such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into a producing formation; and

(5e) ~~t~~The disposal of salt water and oil-field wastes.

(6) The commission is authorized to classify and reclassify pools as oil, gas, or condensate pools, or wells as oil, gas, or condensate wells.

(7) The commission is authorized to make and enforce rules, regulations, and orders reasonably necessary to prevent waste, protect correlative rights, to govern the practice and procedure before the commission, and otherwise to administer this act.

SECTION 4. That Section 42-233, Idaho Code, be, and the same is hereby amended to read as follows:

42-233. LOW TEMPERATURE GEOTHERMAL RESOURCE. (1) The right to the use of low temperature geothermal resources of this state shall be acquired by appropriation, except as provided in subsection (2) of this section. The appropriation may be perfected by means of the application, permit and license procedure as provided in this chapter for ground water, provided that low temperature geothermal resources shall be utilized primarily for heat value and secondarily for the value as water. Usage of a low temperature geothermal resource primarily for reasons other than heat value is not a beneficial use of the resource, unless the director of the department of water resources exempts the proposed use. The director may exempt a proposed use if the director finds that the proposed use satisfies the following criteria: (i) there is no feasible alternative use of the resource; (ii) there is no economically viable source of water having a bottom hole temperature of eighty-five (85) degrees or less in a well available; and (iii) the exemption is in the public interest.

(2) The use of low temperature geothermal resources for the development and operation of oil and gas wells permitted under section 47-320, Idaho Code, shall not be subject to the provisions of this chapter. However, the director of the department of water resources may initiate a contested case in accordance with the provisions of chapter 52, title 67, Idaho Code, and the rules of procedure promulgated by the department, if the department has reason to believe that an oil and gas well will cause, is causing or has caused, significant negative impacts to pressure, temperature, quality necessary for beneficial use or quantity of water available to water rights existing at the time of the development of the oil and gas well or to a water resource that can be beneficially used. The evidence of causation must come from the department or be credible information from a water right or a geothermal resource permit holder existing at the time of the development of the oil and gas well. It shall be the burden of the entity operating the oil and gas well to establish that it will not cause, is not causing and has not caused significant negative impacts to pressure, temperature, quality necessary for beneficial use or quantity of water available to existing water rights existing at the time of the development of the oil and gas well or to a water resource that can be beneficially used. If the director determines that the well will cause, is causing or has caused significant negative impacts to pressure, temperature, quality necessary for beneficial use or quantity of water available to a water right existing at the time of the development of the oil and gas well or to a water resource that can be beneficially used, the director may order the operator to take measures to mitigate those impacts.

(3) Any owner of a well who engages in the drilling, redrilling, modifying or deepening of any low temperature geothermal well shall file with the director of the department of water resources a surety bond or cash bond in the penal sum of not less than five thousand dollars (\$5,000) or more than twenty thousand dollars (\$20,000) as determined by the director

of the department of water resources based on the temperature, depth and pressure of the resource, the size and depth of the well, and any other relevant factors. The surety or cash bond shall be conditioned upon the proper compliance with the provisions of this chapter and chapter 40, title 42, Idaho Code, and rules and regulations promulgated pursuant thereto. The bond shall remain in effect for one (1) year following completion of drilling, redrilling, modifying or deepening of the well or until released in writing by the director, whichever occurs first.

(34) All permits, licenses, decreed rights and valid claims to a right to the use of ground water which would be classified as a low temperature geothermal resource having a priority date prior to July 1, 1987, remain valid and the bond provisions of subsection (23) of this section are not applicable unless the well from which the right diverts water is modified or deepened. The provisions of this section shall not be applicable to all permits, licenses and rights to the use of geothermal resources as defined in chapter 40, title 42, Idaho Code, which would be classified as a low temperature geothermal resource under this section, issued or proclaimed prior to July 1, 1987, and the bond provisions of subsection (23) of this section are not applicable to such wells.

SECTION 5. That Section 42-3902, Idaho Code, be, and the same is hereby amended to read as follows:

42-3902. DEFINITIONS. Whenever used in this chapter:

(1) "Aquifer" means any geologic formation that will yield water to a well in sufficient quantities to make production of water from the formation feasible for beneficial use, except when the water in such formation results solely from injection through a deep or shallow injection well.

(2) "Deep injection well" means an injection well which is more than eighteen (18) feet in vertical depth below land surface.

(3) "Director" means the director of the department of water resources.

(4) "Drinking water source" means an aquifer which contains water having less than ten thousand (10,000) mg/1 total dissolved solids and has not been exempted from this designation by the director of the department of water resources.

(5) "Fluid" means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gaseous or any other form or state.

(6) "Formation" means a body of consolidated or unconsolidated rock characterized by a degree of lithologic homogeneity which is mappable at the earth's surface or traceable in the subsurface.

(7) "Hazardous waste" means any fluid or combination of fluids, excluding radioactive wastes, which because of quantity, concentration or characteristics (physical, chemical or biological) may:

(a) Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible or incapacitating reversible illness; or

(b) Pose a substantial threat to human health or to the environment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitable, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties, but do not include solid or dissolved material in domestic sewage or solid or dissolved material in irrigation return flows.

(8) "Injection" means the subsurface emplacement of fluids through an injection well, but excludes the following:

(a) The underground injection of natural gas for purposes of storage; and

(b) The underground injection of fluids or propping agents, other than diesel fuels, pursuant to hydraulic fracturing operations related to oil, gas or geothermal production activities.

(9) "Injection well" means any feature that is operated to allow injection which also meets at least one (1) of the following criteria:

- (a) A bored, drilled or driven shaft whose depth is greater than the largest surface dimension;
- (b) A dug hole whose depth is greater than the largest surface dimension;
- (c) An improved sinkhole; or
- (d) A subsurface fluid distribution system.

Provided however, that "injection well" does not mean or include any well drilled for oil, gas or geothermal production activities, other than one into which diesel fuels are injected pursuant to hydraulic fracturing operations.

(10) "Irrigation waste water" means excess surface water from agricultural fields generated during any agricultural operation, including runoff of irrigation tailwater, as well as natural drainage resulting from precipitation, snowmelt and floodwaters.

(11) "Licensed driller" means any person holding a valid license to drill water wells in Idaho as provided and defined in section 42-238, Idaho Code.

(12) "Operate" means to allow fluids to enter an injection well by action or by inaction of the operator.

(13) "Operator" means any individual, group of individuals, partnership, company, corporation, municipality, county, state agency, taxing district or federal agency who operates or proposes to operate any injection well.

(14) "Owner" means any individual, group of individuals, partnership, company, corporation, municipality, county, state agency, taxing district, or federal agency owning land on which any injection well exists or is proposed to be constructed.

(15) "Radioactive material" means any material, solid, liquid or gas which emits radiation spontaneously.

(16) "Radioactive waste" means any fluid which contains radioactive material in concentrations which exceed those established for discharges to water by 10 CFR 20.

(17) "Shallow injection well" means an injection well which is less than or equal to eighteen (18) feet in vertical depth below land surface.

(18) "Sanitary waste" means any fluid generated through residential (domestic) activities, such as food preparation, cleaning and personal hygiene. The term does not include industrial, municipal, commercial or other nonresidential process fluids.

(19) "Surface runoff water" means runoff water from the natural ground surface and cropland. Runoff from urbanized areas, such as streets, parking lots, airports, and runoff from animal feedlots, agricultural processing facilities and similar facilities are not included within the scope of this term.

SECTION 6. That Section 42-4003, Idaho Code, be, and the same is hereby amended to read as follows:

42-4003. PERMITS -- APPLICATION -- FEE -- EXCEPTIONS. (a₁) Any person who, as owner or operator, proposes to construct a well or to alter a well or to construct or to alter an injection well shall first apply to the director for a geothermal resource well permit, except as provided in subsection (2) of this section.

(2) The use of ground water classified as a geothermal resource or material medium for the development and operation of oil and gas wells permitted

under section 47-320, Idaho Code, shall not be subject to the provisions of this chapter. However, the director of the department of water resources may initiate a contested case in accordance with the provisions of chapter 52, title 67, Idaho Code, and the rules of procedure promulgated by the department, if the department has reason to believe that an oil and gas well will cause, is causing or has caused, significant negative impacts to pressure, temperature, quality necessary for beneficial use or quantity of water available to water rights existing at the time of the development of the oil and gas well or to a geothermal resource that can be beneficially used. The evidence of causation must come from the department or be credible information from a water right holder or a geothermal resource permit holder existing at the time of the development of the oil and gas well. It shall be the burden of the entity operating the oil and gas well to establish that it will not cause, is not causing and has not caused significant negative impacts to pressure, temperature, quality necessary for beneficial use or quantity of water available to existing water rights existing at the time of the development of the oil and gas well or to geothermal resource that can be beneficially used. If the director determines that the well will cause, is causing or has caused significant negative impacts to pressure, temperature, quality necessary for beneficial use or quantity of water available to a water right existing at the time of the development of the oil and gas well or to a geothermal resource that can be beneficially used, the director may order the operator to take measures to mitigate those impacts.

(3) Such application required pursuant to subsection (1) of this section shall set out the following information on a form or forms prescribed by the department:

(1a) The name of any person making the application; if such person is a partnership, joint-venture, association, or other unincorporated group of corporate or natural persons, the names and places of domicile of each of the constituent persons who have general partnership responsibility and authority for and in such unincorporated group of persons; if any person named on a permit application is a corporation, its place of domicile, the names and places of domicile of its principal executive officers, and the names and places of domicile of any person or persons owning a thirty percent (30%) or greater interest, whether legal, beneficial, or a combined legal and beneficial interest, in such corporate person; if the applicant is making an application as an agent for any other person, it shall be clearly so stated and any person who is the applicant's principal shall be subject to each and all of the disclosure requirements of this subsection; for purposes of this subsection, the domicile of a corporation is at all of the following:

a-(i) The place of incorporation;

b-(ii) The principal place of business;

e-(iii) The place, by city and state, of the home office, and in any instance where domicile is required to be disclosed all of these places shall be specified.

(2b) The location of the proposed well; and/or the injection well described particularly by the quarter-quarter section according to the township and range system of the United States public lands survey.

(3c) The length, size, type, and thickness of casing proposed to be used in such well and/or such injection well and any other devices or techniques to be used in the drilling, operation, and maintenance of such well and/or injection well for the purpose of conserving geothermal resources and their availability, avoiding waste and for the protection of other subsurface natural resources.

(4d) The character and composition of the material expected to be derived from such well.

(5e) The means proposed to be used to contain and manage the material expected to be derived from such well or injected into such injection

well in order to avoid unreasonable damage to life, property, or surface and atmospheric natural resources.

(6f) Whether such well or such injection well is proposed to be constructed as a part of a program for exploration or for development of an already explored geothermal resource area.

(7g) Such other information as the director may determine to be necessary for the administration of this chapter.

(b4) Any application for a permit to construct a well which is made pursuant to this section, if the construction or operation of such well will involve the use of water, or if such well may be expected to yield water to be used, for any beneficial purpose, other than as a mineral source, an energy source, or otherwise as a material medium, shall be accompanied by an application to appropriate the public waters of this state in the form prescribed in chapter 2, title 42, Idaho Code, and by rules adopted pursuant thereto, and such application to appropriate the public waters shall be governed in all respects by that chapter.

(e5) Any application for a permit made pursuant to this section shall be accompanied by a filing fee of:

(1a) Two hundred dollars (\$200) if for a well; or

(2b) One hundred dollars (\$100) for an injection well;

and no application shall be accepted and filed by the director until such filing fee has been deposited with him. All moneys received under the provisions of this chapter shall be deposited with the state treasurer in the water administration fund as provided in section 42-238a, Idaho Code.

(d6) No person shall construct or alter a well or an injection well without having first secured a permit therefor; provided however, that the director may, by general rule adopted pursuant to chapter 52, title 67, Idaho Code, exempt specific categories of wells or injection wells otherwise embraced by this chapter upon a finding that the purposes of this chapter do not require that such wells be subject to the permit requirement of this section.

(e7) Nothing in this chapter shall be construed as affecting any valid, vested water rights for water in use on or before July 1, 1987.

(f8) The director shall have the authority to and may designate any area of the state a "geothermal area" when the director finds or has reason to believe that such designation is necessary to protect the geothermal resource from waste and to protect other resources of the state from contamination or waste.

(g9) No person shall drill a well for any purpose to a depth of three thousand (3,000) feet or more below land surface in a designated "geothermal area" without first obtaining a permit under the provisions of this section. Such permit shall be in addition to any permit required by other provisions of law.

(h10) The owner of any well constructed or being constructed pursuant to section 47-320, Idaho Code, who encounters a geothermal resource, and who intends or desires to utilize such resource, shall make application for a geothermal permit as required under this section, provided however, that no additional filing fee shall be required.

(i11) A geothermal resource shall be utilized primarily for its heat value. Usage of a geothermal resource primarily for some reason other than its heat value shall not be deemed a beneficial use of the resource.

SECTION 7. 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 112
(H.B. No. 481)

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5203, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE NUMBER OF PUBLIC CHARTER SCHOOLS THAT MAY BEGIN EDUCATIONAL INSTRUCTION IN ANY ONE YEAR, TO PROVIDE A CORRECT CITE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. 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) ~~The number of n~~New public charter schools which may begin educational instruction in any one (1) school year shall be limited in number in accordance with subject to the following:

~~(a) Not more than six (6) new public charter schools may begin educational instruction in any one (1) school year, and~~

~~(b) Not more than one (1) new public charter school may begin educational instruction that is physically located within any one (1) school district in any one (1) school year, and~~

(ea) No whole school district may be converted to a charter district or any configuration which includes all schools as public charter schools; and

~~(d) Public virtual charter schools approved by the public charter school commission are not included in paragraph (b) of this subsection, and~~

~~(e) The transfer of a charter for a school already authorized pursuant to section 33-5205A, Idaho Code, is not included in the limit on the annual number of public charter schools approved to begin educational instruction in any given school year as set forth in paragraph (a) of this subsection, and~~

(fb) 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

(gc) To begin operations, a newly-chartered 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 authoriz-

ing 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. 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 as a local education agency (LEA) as such term is defined in 34 CFR 300.128; however, only public charter schools chartered by the board of trustees of a school district may be included in that district's LEA.

Approved March 23, 2012.

CHAPTER 113
(H.B. No. 516)

AN ACT

RELATING TO THE STATE LIQUOR DIVISION; AMENDING SECTION 23-105, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-201, IDAHO CODE, TO CORRECT A CODE REFERENCE AND TO REVISE PROVISIONS RELATING TO THE DIVISION AND THE DIRECTOR OF THE DIVISION; REPEALING SECTION 23-204, IDAHO CODE, RELATING TO SUCCESSORS TO PROPERTY OF FORMER ADMINISTRATORS; REPEALING SECTION 23-205, IDAHO CODE, RELATING TO THE SECRETARY AND THE APPOINTMENT, TERM AND DUTIES; AMENDING SECTION 23-207, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE POWERS OF THE DIRECTOR; AMENDING SECTION 23-211, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE RELATING TO THE POSITION OF SECRETARY; AMENDING SECTION 23-214, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE RELATING TO THE POSITION OF SECRETARY; AMENDING SECTION 23-301, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE ESTABLISHING AND MAINTAINING OF LIQUOR STORES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 23-304, IDAHO CODE, TO DELETE LANGUAGE RELATING TO VENDORS; AMENDING SECTION 23-305, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO VENDORS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 23-306, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO VENDORS; AMENDING SECTION 23-309, IDAHO CODE, TO DELETE LANGUAGE RELATING TO VENDORS; AMENDING SECTION 23-406, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE RELATING TO THE POSITION OF SECRETARY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 23-407, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO VENDORS; AMENDING SECTION 23-607, IDAHO CODE, TO REVISE EXEMPTIONS FROM PROVISIONS RELATING TO CERTAIN ADVERTISING; REPEALING SECTION 23-609, IDAHO CODE, RELATING TO INTERNAL REVENUE RECEIPT AS PRIMA FACIE EVIDENCE; AMENDING SECTION 23-611, IDAHO CODE, TO PROVIDE A REFERENCE TO THE DIRECTOR OF THE IDAHO STATE POLICE; AND AMENDING SECTION 23-914, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE PURCHASE OF LIQUOR BY LICENSEES AND THEN SOLD BY LICENSEES.

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

SECTION 1. That Section 23-105, Idaho Code, be, and the same is hereby amended to read as follows:

23-105. ALCOHOLIC LIQUOR DEFINED. "Alcoholic liquor," as the term is used in this act, includes:

(a) "Alcohol," meaning the product of distillation of any fermented liquor, rectified once or more than once, whatever may be the origin thereof, or synthetic ethyl alcohol.

(b) "Spirits," meaning any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including, among other things, brandy, rum, whiskey and gin.

(c) Any liquid or solid, patented or not, containing alcohol, spirits, and susceptible of being consumed by a human being, for beverage purposes, and containing more than four percent (4%) of alcohol by ~~weight~~ volume.

SECTION 2. That Section 23-201, Idaho Code, be, and the same is hereby amended to read as follows:

23-201. DIRECTOR -- APPOINTMENT AND TERM. There shall be a state liquor division (in this act referred to as the "division"), in the office of the governor. The division shall be a division of the office of the governor for the purposes of chapter 24 8, title 67, Idaho Code, and the administrator of the division shall be known as the director of the state liquor division. ~~The division shall be conducted by the director of the division.~~ The director shall be appointed by the governor for a term of three (3) years, but may be removed by the governor at will.

SECTION 3. That Section 23-204, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 23-205, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 23-207, Idaho Code, be, and the same is hereby amended to read as follows:

23-207. SPECIFIC RULES AND REGULATIONS. Without attempting or intending to limit the general powers of the director of the division contained in section 23-206, Idaho Code, such powers shall extend to and include the following:

(a) ~~To prescribe the duties of the secretary, and to supervise his conduct while in the discharge of his duties.~~

~~(b)~~ Subject to the provisions of chapter 53, title 67, Idaho Code, to prescribe the qualifications of and to select clerks, accountants, agents, vendors, inspectors, servants, legal counsel, and other personnel to conduct its business and perform its functions; to require that those holding positions of trust be bonded to the state of Idaho in the time, form and manner prescribed by chapter 8, title 59, Idaho Code; to fix the compensation of all appointees and employees, assign their duties, and to discharge them.

(e**b**) To regulate the management, operation, bookkeeping, reporting, equipment, records, and merchandise of state liquor stores and distribution stations and warehouses.

(e**c**) To regulate the importation, purchase, transportation, and storage of alcoholic liquor and the furnishing of alcoholic liquor to state liquor stores, distribution stations, and warehouses established under this act.

(e**d**) To determine the classes, varieties, and brands of alcoholic liquors to be kept in state warehouses and for sale at state liquor stores and distribution stations.

(e**e**) To determine the nature, form, and capacity of packages containing liquor kept or sold.

(e**f**) To prescribe the kinds and character of official seals or labels to be attached to packages of liquor sold to a licensee as defined in chapter 9, title 23, Idaho Code. No official seals or labels shall be required to be

attached to packages of liquor sold to the general public, at a liquor store or a distributing station.

(hg) From time to time to fix the sale prices, which shall be uniform throughout the state, of the different classes, varieties, or brands of alcoholic liquor, and to issue and distribute price lists thereof.

(ih) To prescribe, prepare, and furnish printed forms and information blanks necessary or convenient for administering this act, and printed copies of the regulations made thereunder. To contract for the printing thereof and of all necessary records and reports.

(ji) To regulate the issuance, suspension and revocation of permits and licenses to purchase, manufacture and handle or traffic in alcoholic liquor.

(kj) To prescribe the conditions and qualifications necessary for obtaining permits and licenses, and the conditions of use of privileges under them; and to provide for the inspection of the records and the conduct of use of permittees and licensees.

(lk) To prescribe the kind, quality, and character of alcoholic liquors which may be purchased or sold under any and all licenses and permits, including the quantity which may be purchased or sold at any one (1) time or within any specified period of time.

SECTION 6. That Section 23-211, Idaho Code, be, and the same is hereby amended to read as follows:

23-211. PERSONNEL NOT TO BE INTERESTED IN PRIVATE LIQUOR TRAFFIC. Neither the director, ~~the secretary,~~ nor any other officer or employee of the division shall, directly or indirectly, individually, or as a member of a partnership or as a shareholder in a corporation, have any private interest whatsoever in the business of manufacturing, transporting, distributing, or selling of alcoholic liquor; nor shall he receive any kind of profit whatsoever, or have any interest whatsoever in the purchases or sale by the persons herein authorized to purchase and sell alcoholic liquor, except that such provisions shall not prevent any such person from purchasing and keeping in his possession for the personal use of himself, his family, or his guests, of any liquor which may be lawfully purchased.

SECTION 7. That Section 23-214, Idaho Code, be, and the same is hereby amended to read as follows:

23-214. OFFICERS AND EMPLOYEES NOT PERSONALLY LIABLE. Neither the director, ~~secretary,~~ nor any of the officers or employees of the division shall be liable for damages sustained by any person because of any act done in the performance of their respective duties under this act.

SECTION 8. That Section 23-301, Idaho Code, be, and the same is hereby amended to read as follows:

23-301. LIQUOR STORES -- NOTICE OF INTENT TO LOCATE. (a) The division may establish and maintain liquor stores ~~under the management of a vendor~~ in any city organized under general or special law. Before any store site or distributing station may be established within a city or unincorporated area that does not have a distributing station, the division shall have printed in the city's official newspaper, as defined in section 50-213, Idaho Code, a legal notice of the division's intent to establish a liquor store or distributing station in the city and that a public hearing will be held regarding the proposed liquor store if the requirements specified herein are satisfied. The legal notice shall contain the time, date and place of the hearing and the address where the liquor store or distributing station is proposed to be located, notice of the right to protest the location, the requirements necessary to be satisfied before a public hearing will be held,

and shall be a twenty (20) days' notice as described in section 60-109, Idaho Code. If the lesser of twenty-five (25) people or ten percent (10%) of the eligible voters living in precincts, any part of which is located within a one thousand (1,000) foot radius surrounding of the proposed site, sign a petition which protests the proposed site of the liquor store or distributing station and present it to the director or his designated representative, a public hearing shall be held within one (1) week after the last legal notice has been published.

(b) If fifty percent (50%) or more of the eligible voters living in precincts, any part of which is located within a one thousand (1,000) foot radius surrounding the proposed site of the liquor store or distributing station, sign a petition which protests the proposed site of the liquor store or distributing station and present it to the director or his designated representative within five (5) business days after the public hearing, the division shall not place a liquor store or distributing station at the proposed site.

(c) The division may classify liquor stores according to the volume of their sales.

SECTION 9. That Section 23-304, Idaho Code, be, and the same is hereby amended to read as follows:

23-304. ~~QUALIFICATIONS OF VENDORS AND SPECIAL DISTRIBUTORS.~~ A ~~vender~~ or special distributor shall have been a resident of the state for at least six (6) months prior to his selection and shall be a person having a reputation for probity, temperance and integrity.

SECTION 10. That Section 23-305, Idaho Code, be, and the same is hereby amended to read as follows:

23-305. ~~COMPENSATION OF VENDORS AND SPECIAL DISTRIBUTORS.~~ ~~Vendors and~~ special distributors shall receive uniform compensation, which compensation shall be considered a part of the cost of sales, according to classifications, fixed by the division.

SECTION 11. That Section 23-306, Idaho Code, be, and the same is hereby amended to read as follows:

23-306. ~~GENERAL CONDUCT AND MANAGEMENT.~~ In the conduct and management of liquor stores and distributing stations, ~~vendors and~~ special distributors shall be subject to the provisions of this act and the rules and regulations of the division.

SECTION 12. That Section 23-309, Idaho Code, be, and the same is hereby amended to read as follows:

23-309. ~~SALES.~~ No ~~vender of any state liquor store or special distributor~~ shall sell any alcoholic liquor or any other merchandise on behalf of the division except for cash, check, money order, credit card, electronic funds transfer or debit card. In addition, the division shall, under such rules as may be adopted by it, authorize the vender of a state liquor stores or special distributors to accept a check, credit cards, electronic funds transfer or debit card from persons licensed for the retail sale of liquor by the drink pursuant to chapter 9, title 23, Idaho Code, as payment for purchases from the division. Dishonor of any credit device given by such person shall constitute grounds for suspension or revocation of such person's license pursuant to section 23-933, Idaho Code, in addition to any other remedy provided by law.

SECTION 13. That Section 23-406, Idaho Code, be, and the same is hereby amended to read as follows:

23-406. ADMINISTRATIVE EXPENSE. Claims for salaries, wages, and other compensation, premiums on official bonds, traveling and other expenses of the director, ~~secretary~~ and other officers and employees, and all other expenditures made by the division in the exercise of its powers hereunder, shall be paid from the liquor fund as a part of the cost of the administration of this act.

SECTION 14. That Section 23-407, Idaho Code, be, and the same is hereby amended to read as follows:

23-407. DEPOSIT OF REVENUE. It shall be the duty of all special distributors, ~~venders~~, officers, agents, and employees to report and pay over to the division, in such manner and pursuant to such rules as may be adopted by it, all revenues derived from the sale of alcoholic beverages, all revenues derived from the sale of all other merchandise sold on behalf of the division, excise taxes, licenses, permits, fees, profits on sales, or other revenues resulting from the operation of this act, and the division shall deposit the same with the state treasurer to the credit of the liquor fund.

SECTION 15. That Section 23-607, Idaho Code, be, and the same is hereby amended to read as follows:

23-607. ADVERTISING. Except as permitted by federal statute and regulations, there shall be no public advertisement or advertising of alcoholic liquors in any manner or form within the state of Idaho.

(1) No person shall publish, exhibit, or display or permit to be displayed any other advertisement or form of advertisement, or announcement, publication, or price list of, or concerning any alcoholic liquors, or where, or from whom the same may be purchased or obtained, unless permitted so to do by the regulations enacted by the division and then only in strict accordance with such regulations.

(2) This section of the act shall not apply however:

(a) To the division.

(b) To the correspondence, ~~or telegrams~~, or general communications of the commission division, or its agents, ~~servants~~, and employees.

~~(c) To the receipt or transmission of a telegram or telegraphic copy in the ordinary course of the business of such agents, servants, or employees of any telegraph company.~~

A violation of this section shall constitute a misdemeanor.

SECTION 16. That Section 23-609, Idaho Code, be, and the same is hereby repealed.

SECTION 17. That Section 23-611, Idaho Code, be, and the same is hereby amended to read as follows:

23-611. OFFICERS MAY SEIZE ILLEGAL ALCOHOLIC LIQUOR. The ~~commissioner~~ director of the Idaho state police or any of his agents, any sheriff, constable or other peace officer who shall find any liquor, possessed, manufactured, transported, purchased, sold or disposed of by any person in violation of the provisions of this act, or any other laws of the state of Idaho, may forthwith seize and remove the same and keep the same as evidence, and upon conviction of the person, the said liquor and all packages and receptacles containing the same shall be forfeited to the state of Idaho and, in addition, persons so violating this act shall be subject to the other penalties herein prescribed.

SECTION 18. That Section 23-914, Idaho Code, be, and the same is hereby amended to read as follows:

23-914. LICENSEE MUST PURCHASE FROM DIVISION -- PRICE. All liquor sold by any licensee shall be purchased from the division through its regular retail stores and ~~distributors~~ distributing stations at the posted price thereof. The division is hereby authorized and directed to make such sales ~~for cash, check or money order to be paid at the time of purchase pursuant to section 23-309, Idaho Code,~~ upon a special permit issued to such licensee in such form as shall be prescribed by the director of the division. The posted price as used herein shall mean the retail price of such liquor as fixed and determined by the division.

It shall be unlawful for any licensee to sell, or keep for sale, or have on his premises for any purpose whatsoever, any liquor except that purchased as herein authorized and provided, and any licensee found in possession of, selling or keeping for sale any liquor not purchased as herein authorized shall be guilty of a felony and upon conviction thereof shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or by imprisonment in the state prison for not more than five (5) years, or by both such fine and imprisonment. Any license issued to such person shall be immediately and permanently revoked. The amount of liquor to be sold to licensees hereunder in any city or village shall be determined by the director or other executive officer of the division, but such sales shall be regulated so as to maintain adequate stocks of merchandise for sale to persons other than said licensees.

The provisions of this section notwithstanding, railroad companies shall have the right to have in their possession liquors other than those purchased from the division.

Approved March 23, 2012.

CHAPTER 114
(H.B. No. 595)

AN ACT

RELATING TO THE STATE VICTIM NOTIFICATION FUND; AMENDING CHAPTER 32, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3204, IDAHO CODE, TO ESTABLISH A CERTAIN FEE FOR VICTIM NOTIFICATION PURPOSES; AMENDING CHAPTER 29, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2912, IDAHO CODE, TO ESTABLISH THE STATE VICTIM NOTIFICATION FUND, TO PROVIDE FOR THE PAYMENT OF MONEYS IN SUCH FUND, TO PROVIDE CERTAIN AUTHORITY OF THE DIRECTOR OF THE IDAHO STATE POLICE AND TO PROVIDE FOR THE SOURCE OF MONEYS FOR SUCH FUND.

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

SECTION 1. That Chapter 32, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 31-3204, Idaho Code, and to read as follows:

31-3204. VICTIM NOTIFICATION -- FEE. The court shall charge a fee of ten dollars (\$10.00) for victim notification purposes to be paid by each person found guilty of each felony or misdemeanor, except when the court orders such fee waived because the person is indigent and unable to pay such fee. Such fee shall be in addition to all other fines and fees levied. Such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the state victim notification fund established in section 67-2912, Idaho Code.

SECTION 2. That Chapter 29, 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 67-2912, Idaho Code, and to read as follows:

67-2912. STATE VICTIM NOTIFICATION FUND. (1) There is hereby established in the state treasury the state victim notification fund. Moneys in the fund shall be perpetually appropriated to, and shall be used by the director of, the Idaho state police. Moneys deposited to the fund shall be expended for the purpose of defraying the costs of administering the statewide automated victim information and notification (SAVIN) system by the Idaho sheriffs' association for the purpose of satisfying the provisions of section 22, article I, of the constitution of the state of Idaho requiring victim notification of offender court and incarceration status. Moneys deposited to the fund shall be paid to the Idaho sheriffs' association on a quarterly basis for the reimbursement of all costs associated with administering the SAVIN system. The director of the Idaho state police is authorized to allocate up to five percent (5%) of the moneys in the fund for reimbursement of all administrative expenses in relation to its administration of the fund. At the end of each state fiscal year, all moneys remaining in the fund after all costs for the administration of the SAVIN system have been paid, less one quarter's operating and administrative moneys, shall be remitted to the crime victims compensation account established in section 72-1009, Idaho Code. The state treasurer shall invest all moneys in the state victim notification fund and interest and proceeds earned shall be retained in the fund. The Idaho sheriffs' association shall provide evidence of an independent audit of the moneys received and expenditures made under this section to the Idaho state police on a yearly basis and shall be subject to audit by the Idaho state controller at the discretion of the state controller.

(2) The state victim notification fund shall be funded as provided in section 31-3204, Idaho Code.

Approved March 23, 2012.

CHAPTER 115
(H.B. No. 598)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM AND THE BLIND COMMISSION; AMENDING SECTION 59-1354, IDAHO CODE, TO PROVIDE THAT A RETIRED MEMBER, WHO SUBSEQUENT TO BECOMING A DISABILITY RETIREE SERVES ON ANY STATE BOARD OR COMMISSION THAT IS STATUTORILY REQUIRED TO MEET ONCE PER MONTH OR LESS AND, WHO IS NOT AN EMPLOYEE AS DEFINED IN THE PUBLIC EMPLOYMENT RETIREMENT SYSTEM LAW BY VIRTUE OF SUCH SERVICE, SHALL NOT BE DEEMED TO HAVE CEASED TO BE DISABLED BECAUSE OF SUCH SERVICE; AMENDING SECTION 59-1354A, IDAHO CODE, TO REVISE THE DEFINITION OF "RETURN TO WORK"; AND AMENDING SECTION 67-5404, IDAHO CODE, TO PROVIDE AN ALTERNATIVE COMPENSATION FOR MEMBERS OF THE BLIND COMMISSION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 59-1354, Idaho Code, be, and the same is hereby amended to read as follows:

59-1354. TIME FOR PAYMENT OF DISABILITY RETIREMENT ALLOWANCE. (1) A disability retirement allowance shall become payable to a member on the first of the month next following the later of:

(a) The day salary, sick leave or other temporary compensation benefits terminate under any plan paid for in whole or in part by the employer of the member; or

(b) The day five (5) months after the member becomes eligible for disability retirement.

(2) The disability retirement allowance shall be paid monthly thereafter to, but not including, the first of the month next following the earliest of the date:

(a) Of the retired member's death;

(b) That the retired member elects to receive an early or service retirement allowance;

(c) That the retired member ceases to be disabled, provided however, that a retired member, who subsequent to becoming a disability retiree serves on any state board or commission that is statutorily required to meet once per month or less and, who is not an employee as defined in this chapter by virtue of such service, shall not be deemed to have ceased to be disabled because of such service; or

(d) That the member waives, in writing, the member's disability allowance.

(3) When a disability retirement allowance ceases pursuant to subsection (2) (b) of this section, the early or service retirement allowance shall become payable on the first of the month following the date of the last payment of the disability retirement allowance.

(4) Effective the date a disability retirement allowance ceases pursuant to subsections (2) (c) and (d) of this section, the member's status shall be inactive unless the member again becomes an employee or elects either early or service retirement.

SECTION 2. That Section 59-1354A, Idaho Code, be, and the same is hereby amended to read as follows:

59-1354A. MEMBERS RECEIVING A DISABILITY RETIREMENT RETURNING TO WORK. (1) A retired member receiving a disability retirement allowance may return to work under the following conditions:

(a) The retired member must notify the executive director in writing in advance of the return to work; and

(b) The disability retirement allowance shall terminate upon such notification.

(2) The disability retirement allowance of a retired member who returns to work under subsection (1) of this section shall resume if:

(a) The retired member terminates his return to work within one hundred fifty (150) days from the date of the notification required in subsection (1) (a) of this section;

(b) The retired member makes a written request to the board; and

(c) The board determines that the member is disabled, as defined in section 59-1302(12), Idaho Code, and that the member could not successfully return to work because of the same disability on which his disability retirement was based.

(3) In making its decision, the board may require the member to submit medical records in support of his request and may require the member to submit to a medical examination. The refusal to submit such records or to submit to such examination shall constitute proof that the member is not disabled. If the board requires a medical examination, any costs associated with such examination must be paid by the member. A disability retirement allowance that is resumed under this section shall be payable the first of the month after the board makes the determination described herein.

(4) If a retired member receiving a disability retirement allowance who returns to work again meets the definition of employee as defined in section 59-1302(14) (A), Idaho Code, eligibility for disability retirement shall be

determined in accordance with sections 59-1302(12), 59-1352 and 59-1354, Idaho Code.

(5) For the purposes of this section, "return to work" means being engaged in any activity for which compensation is normally paid but shall not include service on any state board or commission that is statutorily required to meet once per month or less where the retired member is not an employee as defined in this chapter by virtue of such service.

SECTION 3. That Section 67-5404, Idaho Code, be, and the same is hereby amended to read as follows:

67-5404. COMPENSATION. Members of the commission shall be compensated as provided by section 59-509(h), Idaho Code or as provided by section 59-509(n), Idaho Code, pursuant to a one (1) time irrevocable election made in writing by the member.

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

Approved March 23, 2012.

CHAPTER 116
(H.B. No. 621)

AN ACT

APPROPRIATING MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; AND PROVIDING LEGISLATIVE INTENT REQUIRING THAT CERTAIN MONEYS BE EXPENDED FOR 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, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General			
Fund	\$833,700	\$507,900	\$1,341,600
State Treasurer LGIP			
Fund	374,900	70,600	445,500
Treasurer's Office - Professional Services			
Fund	375,000	88,700	463,700
Idaho Millennium Income			
Fund		80,000	80,000
Abandoned Property Trust - Unclaimed Property			
Fund	<u>447,900</u>	<u>436,600</u>	<u>884,500</u>
TOTAL	\$2,031,500	\$1,183,800	\$3,215,300

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, 2012, through June 30, 2013, 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 AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 4. LEGISLATIVE INTENT. 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, 2012, through June 30, 2013.

Approved March 23, 2012.

CHAPTER 117

(H.B. No. 512, As Amended)

AN ACT

RELATING TO SHEEP; AMENDING SECTION 25-126, IDAHO CODE, TO REVISE THE NAME OF THE STATE BOARD OF SHEEP COMMISSIONERS TO THE IDAHO SHEEP AND GOAT HEALTH BOARD; AMENDING SECTION 25-127, IDAHO CODE, TO REVISE THE NAME OF A BOARD, TO PROVIDE THAT BOARD MEMBERS SHALL SERVE AT THE PLEASURE OF THE GOVERNOR, TO REVISE TERMINOLOGY, TO REVISE THE NAME OF AN ACCOUNT, TO PROVIDE THAT THE IDAHO SHEEP AND GOAT HEALTH BOARD MAY REQUEST THE REMOVAL OF A BOARD MEMBER AND TO PROVIDE THAT UPON RECEIPT OF A REQUEST FOR REMOVAL OF A BOARD MEMBER, THE GOVERNOR MAY WITHDRAW THE BOARD MEMBER'S APPOINTMENT; AMENDING SECTION 25-128, IDAHO CODE, TO REVISE THE NAME OF A BOARD; AMENDING SECTION 25-129, IDAHO CODE, TO REVISE THE NAME OF AN ACCOUNT, TO REMOVE A REQUIREMENT FOR APPROVAL OF THE GOVERNOR RELATING TO THE BOARD'S APPOINTMENT OF A VETERINARIAN AND TO REVISE THE NAME OF A BOARD; AMENDING SECTION 25-130, IDAHO CODE, TO REVISE THE NAME OF AN ACCOUNT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 25-131, IDAHO CODE, TO REVISE THE NAME OF AN ACCOUNT, TO REVISE TERMI-

NOLOGY, TO REVISE ASSESSMENT PROVISIONS AND TO PROVIDE THAT THE BOARD MAY BY RULE ESTABLISH AN ASSESSMENT ON GOATS THAT WOULD ASSESS GOATS ON A PER HEAD BASIS AND AT A RATE THAT IS COMPARABLE TO THE ASSESSMENT ON WOOL; AMENDING SECTION 25-136, IDAHO CODE, TO REVISE THE NAME OF AN ACCOUNT; AMENDING SECTION 25-141B, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 25-141C, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 25-141D, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE FOR THE RECEIPT OF IDAHO SHEEP AND GOAT HEALTH FUNDS INTO THE SHEEP AND GOAT DISEASE INDEMNITY FUND AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 25-143, 25-144, 25-145, 25-146, 25-148 AND 25-150, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 25-155, IDAHO CODE, TO REVISE TERMINOLOGY AND TO REVISE THE NAME OF A BOARD; AMENDING SECTION 25-156, IDAHO CODE, TO REMOVE PROVISIONS RELATING TO THE DEPOSIT OF CERTAIN MONEYS, TO REMOVE PROVISIONS RELATING TO THE WITHDRAWAL OF MONEYS, TO REMOVE AUDIT PROVISIONS, TO PROVIDE THAT THE BOARD, OR ENTITY THE BOARD HAS CONTRACTED WITH, SHALL FILE CERTAIN REPORTS AND TO REMOVE EXEMPTION PROVISIONS RELATED TO STANDARD TRAVEL AND PAY ALLOWANCES FOR SPECIFIED EXPENDITURES; REPEALING SECTION 25-157, IDAHO CODE, RELATING TO BONDS OF AGENTS AND EMPLOYEES; AMENDING SECTION 25-158, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 25-160, IDAHO CODE, TO PROVIDE FOR THE IDAHO SHEEP AND GOAT HEALTH BOARD AND TO REVISE TERMINOLOGY; AMENDING SECTION 25-201, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 25-218, IDAHO CODE, TO REVISE THE NAME OF A BOARD; AMENDING SECTION 25-232, IDAHO CODE, TO REVISE THE NAME OF A BOARD, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTIONS 25-2612A AND 67-5303, IDAHO CODE, TO REVISE THE NAME OF A BOARD.

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

SECTION 1. That Section 25-126, Idaho Code, be, and the same is hereby amended to read as follows:

25-126. CREATION OF BOARD. ~~A state board of sheep commissioners~~ The Idaho sheep and goat health board is hereby created within the department of agriculture, but its officers and employees shall not be subject to the administrative control of the director of the department of agriculture. The administrative officers and employees of the board shall be nonclassified employees. The board may contract with the director of the department of agriculture for administrative and/or veterinary services.

SECTION 2. That Section 25-127, Idaho Code, be, and the same is hereby amended to read as follows:

25-127. MEMBERS -- APPOINTMENT, QUALIFICATIONS, SALARY -- OATH. ~~The state board of sheep commissioners~~ Idaho sheep and goat health board, hereinafter called the board, shall consist of five (5) members, all of whom shall be experienced wool growers and no two (2) of whom shall be from the same county; said members shall be appointed by, and serve at the pleasure of, the governor. Members shall and hold their offices for the term for which they are appointed and thereafter until their successors are duly appointed and qualified.

As vacancies occur upon the board, the Idaho Wool Growers Association shall submit to the governor the names of two (2) persons qualified and suitable for appointment for each such vacancy from whom the governor shall make his appointment to fill such vacancies. ~~The first commissioners board~~ shall be appointed for the following terms: two (2) ~~commissioners members~~ shall be appointed to hold office until the first Monday of January 1952; two (2) ~~commissioners members~~ shall be appointed to hold office until the first Monday of January 1954; one (1) ~~commissioner member~~ shall be appointed to hold

office until the first Monday of January 1956; and at the expiration of said dates for the ~~commissioners~~ members first appointed and until the expiration of terms thereafter, ~~commissioners~~ members shall be appointed to fill such vacancies for a term of six (6) years; and in case of any vacancy occurring in the office of ~~commissioner~~ a board member at any time other ~~commissioners~~ members shall be appointed, who in each instance shall hold office until the unexpired term of the ~~commissioner~~ member whom he is appointed to succeed. Each of said ~~commissioners~~ members, before entering upon the duties of his office, shall take and subscribe to the oath of office required by section 59-401, Idaho Code. The members of the board may be compensated as provided by section 59-509(d), Idaho Code. Said compensation may be paid from the ~~sheep commission~~ Idaho sheep and goat health account in the same manner as other expenses are paid. Each member of said board shall be a qualified elector of the county from which he is chosen and must reside during his term of office within the state of Idaho. Said board must hold a meeting annually and at any other time if so requested by any member of the board. The Idaho sheep and goat health board may request the removal of a board member, with or without cause, by a majority vote. Upon receipt of the request, the governor may immediately withdraw the board member's appointment.

SECTION 3. That Section 25-128, Idaho Code, be, and the same is hereby amended to read as follows:

25-128. ~~POWERS AND DUTIES OF STATE BOARD OF SHEEP COMMISSIONERS~~ THE IDAHO SHEEP AND GOAT HEALTH BOARD. The board shall have the authority to perform all those duties and powers necessary for the prevention, control, and eradication of diseases which may include the supervision of sheep, handling of sheep, shipping, transporting or moving of sheep, regulation of sheep, the making of rules concerning sheep and all other matters pertaining to sheep either in the state of Idaho or which may be brought into or shipped from the state of Idaho. The board shall also be responsible for all matters relating to the prevention, control, and eradication of diseases pertaining to goats within the state of Idaho with the provisions of this chapter also applying to goats. The board may also designate a portion of the assessment, as provided in sections 25-130 and 25-131, Idaho Code, to help carry on the work for the prevention and control of damage caused by predatory animals and other vertebrate pests.

SECTION 4. That Section 25-129, Idaho Code, be, and the same is hereby amended to read as follows:

25-129. RULES -- EXECUTIVE SECRETARY, VETERINARIAN, INSPECTORS, SALARIES, EXPENSES AND OFFICE. (1) The board shall elect one (1) of its members chairman. The said board is empowered to make rules for governing itself and such rules as it may deem necessary for the enforcement of the provisions of this chapter and to enforce all such rules, and shall have exclusive control of all matters pertaining to the sheep industry. It shall be empowered to make and enforce rules for quarantining, or otherwise treating sheep which may be infected, affected or infested with ticks, lice or any other parasites detrimental or injurious to sheep, or any infectious or contagious disease of sheep and for the prevention, control and eradication of infectious or contagious diseases, ticks, lice or other parasites detrimental to sheep. All such rules adopted by said board shall have the same force and effect as law and any person, association, firm or corporation violating such rules shall be deemed guilty of a misdemeanor.

(2) The board is empowered to select an executive secretary who may or may not be a member of the board, and such executive secretary shall have the authority and power to sign any and all lawful claims or vouchers to be made, filed or drawn by or on behalf of the board against the ~~sheep commis-~~

sion Idaho sheep and goat health account, and for such purposes he shall be regarded as the administrative head of the agency and he shall perform such other and further duties as the board shall direct.

(3) The board is empowered to appoint, ~~with the approval of the governor,~~ a veterinarian in charge, who must be duly licensed in the state of Idaho and who is a graduate of a recognized and accredited school of veterinary medicine, whose duties and powers shall be defined and prescribed by said board; which said officer shall be bonded to the state of Idaho in the time, form and manner prescribed by chapter 8, title 59, Idaho Code. The veterinarian in charge shall receive such compensation as may be allowed by said board and actual and necessary expenses incurred in the performance of his duties. The veterinarian in charge shall be at all times subject to the authority of the board and shall have the same powers hereinafter provided for all other inspectors appointed by the board under this chapter. The veterinarian in charge shall have authority and power to sign all lawful claims or vouchers filed or drawn on behalf of the board against the ~~sheep commission~~ Idaho sheep and goat health account.

(4) The board is hereby empowered to appoint all other inspectors, veterinarians and such other employees and assistants as may be necessary to carry out the duties and powers herein conferred and fix the compensation of all such appointees. All salaries and expenses of every kind incurred in carrying out the provisions of this chapter shall be paid from the ~~sheep commission~~ Idaho sheep and goat health account.

(5) Inspectors and veterinarians appointed by the ~~board of sheep commissioners~~ Idaho sheep and goat health board shall have the power and duty to assist law enforcement entities in the enforcement of all laws of the state pertaining to the identification, inspection and transportation of sheep and other livestock, and shall have general authority to assist law enforcement entities in the enforcement of theft laws of the state with respect to sheep and other livestock.

SECTION 5. That Section 25-130, Idaho Code, be, and the same is hereby amended to read as follows:

25-130. FIXING ASSESSMENT RATE -- PAYMENT OF CLAIMS -- REPORT -- INSPECTION, QUARANTINE AND TREATMENT OF SHEEP -- DISTRICTS. The board shall meet and fix the rate of special assessment to be levied as provided for in this chapter. Any change in the rate of the special assessment shall be made to be effective at the start of a calendar year. The board shall audit all bills of salaries and expenses incurred in the enforcement of this chapter that may be payable from the ~~sheep commission~~ Idaho sheep and goat health account which shall be audited, allowed and paid as other claims against the state. The board shall have power to order an inspection or quarantine of any sheep in the state of Idaho, whether diseased or exposed to disease, to compel dipping or other treatment of sheep, whether diseased or exposed to disease, at such times and as often as it deems necessary to ~~insure~~ ensure the suppression or eradication of any infectious or contagious disease of sheep and divide the state into such districts as may be necessary for the enforcement of this chapter.

SECTION 6. That Section 25-131, Idaho Code, be, and the same is hereby amended to read as follows:

25-131. SHEEP COMMISSION IDAHO SHEEP AND GOAT HEALTH ACCOUNT -- ASSESSMENT -- FIRST PURCHASER TO MAKE REPORT -- PENALTY FOR FAILURE TO MAKE REPORT -- APPROPRIATION. (1) In order for the board ~~of sheep commissioners~~ to carry out the provisions of this chapter, the board shall assess, levy and collect an assessment established by the board, not to exceed ~~six~~ twelve cents (~~6~~12¢) per pound on all wool, in the grease basis, sold through commer-

cial channels. In the event that a sheep, which produces wool subject to this assessment, shall be located outside the state of Idaho during a part of the assessment year, the amount of the assessment shall be reduced on a pro rata basis. Such assessment shall be levied and assessed to the producer at the time of the first sale of wool and shall be deducted by the first purchaser from the price paid to the producer at the time of such first sale. The assessment provided in this section shall not be levied or collected on any casual sale. In addition to the assessment provisions of this section related to wool, the board may by rule establish an assessment on goats that would assess goats on a per head basis and at a rate that is comparable to the assessment on wool.

(2) The assessment provided by this section shall constitute a lien prior to all other liens and encumbrances upon such wool except liens which are declared prior by operation of a statute of this state.

(3) If the first purchaser lives or has his principal office in another state, the producer shall make the reports and pay the assessments to the board as required under this section unless the first purchaser agrees in writing to make such reports and pay such assessments.

(4) The first purchaser shall specify the amounts of assessments withheld in any written statements made to the producer.

(5) The first purchaser shall make reports to the board on forms prescribed by the board, and no first purchaser shall fail to make such reports or falsify any such reports. The assessment deducted and withheld by a first purchaser, as required in subsection (1) of this section, shall be paid to the board on a quarterly calendar year basis, and shall be due and payable within thirty (30) days after the end of the quarter. All moneys collected by the board under the provisions of this chapter shall be paid to the state treasurer. All moneys received from the assessment pursuant to this section shall be deposited in the state treasury by the state treasurer to the credit of a special account in the state operating fund hereby created to be known as the "~~sheep commission~~ Idaho sheep and goat health account."

(6) A first purchaser who delays transmittal of reports and payments of assessments beyond the time stated in subsection (5) of this section shall pay five percent (5%) of the amount due for the first month of delay and one percent (1%) of the amount due for each month of delay thereafter. Such moneys shall be deposited in the ~~sheep commission~~ Idaho sheep and goat health account.

(7) In addition thereto, the said account shall consist of any appropriations made by the legislature for the use of and expenditure by said board. All fees of every kind collected under the provisions of this chapter, or under any rules and regulations made pursuant to the provisions of this chapter, shall be deposited in the state treasury in the manner hereinabove described. The moneys in said special account are hereby appropriated for the use and expenditure of said board carrying out the provisions of this chapter and the rules and regulations made herein and said account is hereby declared to be a continuing account.

(8) All moneys appropriated to the board for the purposes of sheep disease prevention, abatement, suppression, control or eradication shall be expended by the board only for those purposes, in accordance with the duties specified in section 25-128(1), Idaho Code.

(9) All moneys received by the state board of ~~sheep commissioners~~ from that portion of the special assessment which is made to carry on the work for prevention and control of damage caused by predatory animals and other vertebrate pests shall be expended by the ~~sheep commission~~ board in the respective districts comprising the counties where the assessment was collected less the actual and necessary administrative costs for carrying out the provisions of this chapter. All moneys received by such account for work for prevention and control of damage caused by predatory animals and other vertebrate pests except as herein otherwise provided shall be expended

by the ~~sheep commission board~~ within the district or districts specified by the party or agency providing such funds and any trust fund must be held inviolate for the purposes of the trust.

SECTION 7. That Section 25-136, Idaho Code, be, and the same is hereby amended to read as follows:

25-136. APPROPRIATION FOR SALARY AND EXPENSES. The salaries, expenses and maintenance of the said board and all other salaries and expenses not otherwise provided for, not heretofore provided for in this act, shall be paid out of the ~~sheep commission fund~~ Idaho sheep and goat health account. The legislature may each year set aside from the total appropriation which it shall make for the care, handling, inspection and protection and eradication of disease of livestock in the state, that proportion of the total amount which the value of the sheep and goats in the state of Idaho bears to the value of other livestock in the state as determined by the director of the department of agriculture.

SECTION 8. That Section 25-141B, Idaho Code, be, and the same is hereby amended to read as follows:

25-141B. EXTENT OF ERADICATION AREA -- SUPERVISION AND QUARANTINE OF PREMISES. The ~~state board of sheep commissioners~~ is hereby authorized to quarantine any portion of this state when the fact is determined that sheep or goats are affected with scrapie or any other contagious, infectious or communicable disease. The area designated for the control of scrapie may consist of the entire state, a portion of the state, entire county, or part of the county, if it is less than the entire county; the boundary of the area shall be clearly defined in the order for the establishment of the area.

SECTION 9. That Section 25-141C, Idaho Code, be, and the same is hereby amended to read as follows:

25-141C. SHEEP -- GOATS -- SCRAPIE -- OR OTHER DISEASES -- HERD DEPOPULATION. In order to prevent the introduction or dissemination of scrapie or other contagious, infectious or communicable diseases into or among the sheep or goat population of Idaho, the board is granted authority to identify diseases of concern and to condemn infected herds and to require the destruction or other disposition as approved by the board of such herd or herds. The ~~board of sheep commissioners~~ is authorized to reimburse the owner by cash payment for any affected or exposed sheep or goats which have been condemned, appraised and slaughtered or destroyed or otherwise disposed of by direction of the ~~board of sheep commissioners~~ and for property destroyed and for labor employed in digging trenches and for cleaning and disinfecting premises where such infected or exposed sheep and goats have been kept; provided, that the board shall only pay the difference between the appraised price less federal indemnity and salvage value for any sheep or goats condemned and slaughtered or destroyed under this section and the actual costs for burials or disposal of animal carcasses and for cleaning and disinfecting of premises where infected or exposed sheep or goats have been kept. In the event federal indemnity is unavailable in regard to the value of the sheep or goats, the board shall only pay the difference between the appraised price and salvage value. Appraisals shall be performed by a team comprised of an animal health representative, the owner and a person with experience in sheep or goat marketing. A maximum per head value may be be established by rules of the board. The board or its designee may grant a hearing to any person, under such rules as the board may prescribe which are in compliance with chapter 52, title 67, Idaho Code, when the appraisal price is in dispute. An appeal may be taken

from the decision of the board or its designee under the provisions of chapter 52, title 67, Idaho Code.

SECTION 10. That Section 25-141D, Idaho Code, be, and the same is hereby amended to read as follows:

25-141D. CREATION OF SHEEP AND GOAT DISEASE INDEMNITY FUND. There is hereby created within the department of agriculture a state board of ~~sheep commissioners~~ account to be known as the sheep and goat disease indemnity fund. ~~Funds~~ Funds may be received into this account from any source including, but not limited to, donations, gifts, grants, federal funds, ~~sheep commission Idaho sheep and goat health funds~~, or appropriations from general or dedicated accounts. Moneys received into this account shall be deposited with the state treasurer to the credit of the sheep and goat disease indemnity fund. Moneys deposited into this account may only be used to indemnify owners whose animals or herds have been condemned or destroyed or otherwise disposed of by direction of the board, and for property destroyed, for labor employed in digging trenches, and for cleaning and disinfecting of premises where infected or exposed sheep and goats have been kept.

SECTION 11. That Section 25-143, Idaho Code, be, and the same is hereby amended to read as follows:

25-143. TRANSPORTATION OF SHEEP FROM QUARANTINED AREA. It shall be unlawful for any transportation company or operator of any motor truck to receive for transportation or transport from the quarantined area of this state into or through an unquarantined area of this state or receive for transportation or transport within the quarantined area of this state any sheep, or as a connecting carrier knowingly receive without the quarantined area, sheep from the quarantined area, and transport the same within the state, except as hereinafter provided; nor shall any person, company or corporation deliver for such transportation to any transportation company, or operator of any motor truck, any sheep from the quarantined area, except as hereinafter provided; nor shall any person, company or corporation drive on foot or cause to be driven on foot or transport in private conveyances or otherwise move within the quarantined area, any sheep except as hereinafter provided; and the ~~state board of sheep commissioners~~ shall make and promulgate rules which shall permit and govern the inspection, treatment, certification, handling and method and manner of delivery and shipment or other movement of sheep from a quarantined area of this state, or the shipment or other movement of sheep within a quarantined area of this state.

SECTION 12. That Section 25-144, Idaho Code, be, and the same is hereby amended to read as follows:

25-144. MOVEMENT OF SHEEP FROM QUARANTINED INTO UNQUARANTINED AREA PROHIBITED. It shall be unlawful to move sheep from a quarantined area of the state in any manner whatsoever into an unquarantined area of this state or for connecting carriers to receive sheep of the quarantined area at a point outside of the quarantined area and transport the same within the state, except in accordance with the rules and regulations of the ~~state board of sheep commissioners~~. It shall be unlawful to move any sheep within a quarantined area of the state except in accordance with the rules and regulations of the said board.

SECTION 13. That Section 25-145, Idaho Code, be, and the same is hereby amended to read as follows:

25-145. QUARANTINE OF DISEASED ANIMALS. The representatives of the ~~state board of sheep commissioners~~ or any inspector or agent of the bureau

of animal industry of the United States department of agriculture shall have authority to quarantine, where found, or in any convenient place nearby, any animals affected or infected with or exposed to the contagion or infection of any contagious, infectious or communicable disease. The establishment of any such quarantine shall be immediately reported to the board and said board is authorized and empowered to prescribe such rules and regulations as may be deemed necessary for the movement within the state and the handling, method of treatment and disposition of such animals so quarantined. Written notice of such quarantine shall be given to the owner or custodian of the quarantined animals and it shall be unlawful to move, treat, dip or dispose of such animals, except in accordance with said rules and regulations of the board.

SECTION 14. That Section 25-146, Idaho Code, be, and the same is hereby amended to read as follows:

25-146. INSPECTION AND TREATMENT OF DISEASED SHEEP. The representative of the state board of ~~sheep commissioners~~ or any inspector or agent of the United States bureau of animal industry shall have authority to enter upon any grounds or premises where sheep are kept and to inspect, diagnose and treat sheep found thereon. They shall be authorized and empowered to require owners of sheep to apply such remedies, dips and other curative, protective or preventive agents as may by the board be deemed necessary in order to prevent the introduction or dissemination of disease among the sheep of this state or to effect a cure of affected or infected sheep and in the event that any owner or custodian of such sheep shall refuse to comply with the rules of the board regarding the use of such remedies, dippings and curative agents within the time set by the board and in the manner provided in this act or by the rules of said board, then the board shall be empowered to treat or dip such sheep and the cost thereof, together with all incidental expenses therewith, if any, which shall include the cost and expense of the care and maintenance of said sheep during the time of their custody by the board or its representatives as herein provided, shall be borne by the owner of the sheep so treated or dipped and shall be, until paid, a lien against such sheep.

SECTION 15. That Section 25-148, Idaho Code, be, and the same is hereby amended to read as follows:

25-148. IMPORTATION OF SHEEP -- NOTICE OF INTENTION. When an owner or person in charge of sheep desires to bring such sheep into this state from an adjoining state or territory, he shall notify the state board of ~~sheep commissioners~~ or its agent, in writing, or by telephone or by facsimile, of such intention before entering the state, stating the time and place where such sheep shall enter; provided, however, that no notice will be required when sheep are in transit through the state, except sheep from a known infected area shall only be admitted in accordance with the rules of the board.

SECTION 16. That Section 25-150, Idaho Code, be, and the same is hereby amended to read as follows:

25-150. REGULATION OF PUBLIC SALE YARDS AND PUBLIC AUCTION SALES. For the purpose of preventing the spread of contagious, infectious or communicable diseases among sheep the state board of ~~sheep commissioners~~ is hereby empowered to make reasonable rules and regulations with regard to the handling of sheep in or at public sale yards and public auction sales where sheep are generally sold and shall have the power and authority to prevent the sales of sheep at such public sale yards or public auction sales unless said rules and regulations shall be complied with.

SECTION 17. That Section 25-155, Idaho Code, be, and the same is hereby amended to read as follows:

25-155. DUTIES AND POWERS OF THE ~~COMMISSION BOARD~~ COMMISSION BOARD PERTAINING TO PROMOTION, RESEARCH AND EDUCATION POLICY. (1) The ~~commission board~~ commission board may contract with the Idaho wool growers association, inc., or a similar agency for the administration of the ~~sheep commission's~~ Idaho sheep and goat health board's business pertaining to the promotion, research and education policy.

(2) In the administration of sections 25-153 through 25-160, Idaho Code, the ~~commission board~~ shall, in conjunction with the Idaho wool growers association, inc., have the following duties, authorities and powers:

- (a) To conduct a campaign of research, education and publicity;
- (b) To find new markets for sheep, lamb and wool products;
- (c) To give, publicize and promulgate reliable information showing the value of sheep, lamb and wool products for any purpose for which it is found useful and profitable;

(d) To make public and encourage the widespread national and international use of sheep, lamb and wool products produced in Idaho;

(e) To investigate and participate in studies of the problems peculiar to the producers of sheep, lamb and wool in Idaho.

(3) The ~~commission board~~ shall have the duty, power and authority:

(a) To take such action as the ~~commission board~~ deems necessary or advisable in order to stabilize and protect the sheep, lamb and wool industry of the state and the health and welfare of the public;

(b) To sue and be sued;

(c) To enter into such contracts as may be necessary or advisable;

(d) To appoint and employ officers, agents and other personnel, including experts in agriculture and the publicizing of the products thereof, and to prescribe their duties and fix their compensation;

(e) To make use of such advertising means and methods as the ~~commission board~~ deems advisable and to enter into contracts and agreements for research and advertising within and without the state;

(f) To cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state or by national law, engaged in work or activities similar to the work and activities of the ~~commission board~~, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education and publicity and reciprocal enforcement;

(g) To lease, purchase or own the real or personal property deemed necessary in the administration of the provisions of this act;

(h) To prosecute in the name of the state of Idaho any suit or action for collection of the tax or assessment provided for in the provisions of this act;

(i) To adopt, rescind, modify and amend all necessary and proper orders and resolutions for the procedure and exercise of its powers and the performance of its duties;

(j) To incur indebtedness and carry on all business activities;

(k) To keep books and records and accounts of all its doings, which books, records and accounts shall be open to inspection by the state controller and the public at all times;

(l) To adopt from time to time, alter, rescind, modify and/or amend all proper and necessary rules and orders for the exercise of its powers and performance of its duties under this act.

SECTION 18. That Section 25-156, Idaho Code, be, and the same is hereby amended to read as follows:

~~25-156. DEPOSIT AND DISBURSEMENT OF FUNDS REPORT. (1) Immediately upon receipt, all grants, donations and gifts of funds from any source for expenditure for any purpose consistent with this chapter which may be specified as a condition of any grant, donation or gift, and all of the revenues received under the provisions of section 25-159, Idaho Code, shall be deposited in one (1) or more separate accounts in the name of the commission in one (1) or more banks or trust companies approved under chapter 27, title 67, Idaho Code, as state depositories. The commission shall designate such banks or trust companies. All funds so deposited are hereby continuously appropriated for the purpose of carrying out the provisions of this chapter.~~

~~(2) Funds can be withdrawn or paid out of such accounts only upon checks or other orders upon such accounts signed by two (2) officers designated by the commission.~~

~~(3) The right is reserved to the state of Idaho to audit the funds of the commission at any time.~~

~~(4) On or before January 15 of each year, the commission board, or entity the board has contracted with pursuant to the provisions of section 25-155, Idaho Code, shall file with the senate agricultural affairs committee, the house agricultural affairs committee, the legislative council, the state controller, and the division of financial management, a report showing the annual income to the commission board during the preceding fiscal year. The report shall also include an estimate of income to the commission board for the current fiscal year and a projection of anticipated expenses by category for the current fiscal year. The report shall also include a reconciliation between the estimated income and expenses projected and the actual income and expenses of the preceding fiscal year.~~

~~(5) All moneys received or expended by the commission shall be audited annually by a certified public accountant designated by the commission, who shall furnish a copy of such audit to the director of legislative services and to the senate agricultural affairs committee and the house agricultural affairs committee. The audit shall be completed within ninety (90) days following the close of the fiscal year.~~

~~(6) The expenditures of the commission are expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code.~~

SECTION 19. That Section 25-157, Idaho Code, be, and the same is hereby repealed.

SECTION 20. That Section 25-158, Idaho Code, be, and the same is hereby amended to read as follows:

25-158. STATE NOT LIABLE FOR ACTS OR OMISSIONS OF COMMISSION BOARD OR OF ITS EMPLOYEES. The state of Idaho is not liable for the acts or omissions of the commission board or any member thereof or any officer, agent or employee thereof.

SECTION 21. That Section 25-160, Idaho Code, be, and the same is hereby amended to read as follows:

25-160. REFERENDUM FOR WOOL GROWERS. Prior to the provisions of this act becoming effective, a referendum shall be held to determine if producers favor the provisions of this act. The question shall be submitted by secret ballot upon which the words "Do you favor a promotion, research, and education program for the Idaho sheep industry that is funded by all producers with no refund provision?" are printed with a square before each of the words "YES" and "NO" with directions to insert an "X" mark in the square before the proposition which the voter favors. If a majority of the producers voting in the referendum or a majority of the production represented by the producers

voting in the referendum vote in favor of the question submitted, the provisions of this act shall become effective.

(1) The procedures necessary to initiate a referendum in subsequent years, but not less than five (5) years from the passage of the initial referendum, are as follows:

(a) A referendum shall be held if the Idaho department of agriculture receives a petition requesting such referendum signed by ten percent (10%) or more of sheep producers who have paid an assessment to the Idaho sheep ~~commission~~ and goat health board in either of the two (2) immediate past calendar years; or

(b) A referendum shall be held if the Idaho department of agriculture receives a written request for such referendum from the Idaho sheep ~~commission~~ and goat health board.

(2) (a) Any referendum shall be conducted only among sheep producers who paid an assessment to the Idaho sheep ~~commission~~ and goat health board during one (1) of the two (2) years prior to the referendum.

(b) Any referendum must be supervised by the Idaho department of agriculture.

(c) Any referendum shall be held, and the result determined and declared by the director of the department of agriculture, and recorded in the office of the secretary of state.

(d) Notice of any referendum must be given by the ~~commission board~~ in a manner determined by it. The ballots must be prepared by the ~~commission board~~ and forwarded to eligible producers, who shall return them within twenty (20) days after mailing by the ~~commission board~~.

(e) The ~~commission board~~ shall pay the costs of any referendum.

SECTION 22. That Section 25-201, Idaho Code, be, and the same is hereby amended to read as follows:

25-201. POWERS OF DIVISION OF ANIMAL INDUSTRIES -- BY WHOM EXERCISED. The powers in this chapter conferred upon the division of animal industries (and unless otherwise apparent from the context, the word "division" hereinafter used refers to the division of animal industries) shall be exercised by the director of the department of agriculture or the administrator of the division of animal industries and such officers, employees and deputies as the administrator, with the approval of the director, may authorize, with the exception of those powers and duties pertaining to sheep, which powers and duties shall be exercised in said department by the state board of ~~sheep commissioners~~.

SECTION 23. That Section 25-218, Idaho Code, be, and the same is hereby amended to read as follows:

25-218. DISEASED ANIMALS -- TEMPORARY QUARANTINE -- NOTICE. The representatives of the department of agriculture or division of animal industries of the state of Idaho, or any inspector or agent of the United States department of agriculture, animal and plant health inspection service, veterinary services shall have authority to quarantine temporarily, where found or in any convenient place nearby, any animals affected or infected with, or exposed to, the contagion or infection of any contagious, infectious or communicable disease. The establishment of any such temporary quarantine except the quarantine of domestic sheep, shall be immediately reported to the state division of animal industries; the temporary quarantine of domestic sheep shall be reported to the ~~board of sheep commissioners~~ Idaho sheep and goat health board; and the state department of agriculture and state division of animal industries are hereby authorized and empowered to prescribe and enforce such rules and regulations as may be deemed necessary for the movement within the state, and the handling, method of treatment and

disposition of such animals except domestic sheep, so temporarily quarantined. Such rules and regulations so made shall have the same effect as if contained in this act. Written notice of such quarantine shall be given to the owner or custodian of the quarantined animals, and it shall be unlawful to move, treat, test, dip or dispose of such animals except in accordance with said rules and regulations of said department and division.

SECTION 24. That Section 25-232, Idaho Code, be, and the same is hereby amended to read as follows:

25-232. DISEASE AND ANIMAL DAMAGE CONTROL TAX LEVY AND FEES ON CATTLE, HORSES, AND MULES. (a) There is hereby imposed upon cattle, horses, and mules in the state of Idaho a fee of twenty-two cents (22¢) per head. Said fee shall be collected at the time of every brand inspection when a charge for brand inspection is made as required by law. Such fee when collected shall be paid by the person paying the charge for brand inspection and shall be used by the Idaho department of agriculture for livestock disease control. The state brand inspector shall collect said fees in addition to, at the same time and in the same manner as the fee collected for brand inspection. The fees so collected shall be deposited as provided in section 25-233, Idaho Code.

(b) In addition to the fee imposed in subsection (a) above of this section, there is hereby imposed an additional fee of not to exceed five cents (5¢) per head upon the same livestock subject to the fee required in subsection (a). The amount of the additional fee shall be fixed by order of the state brand board upon the written recommendation of the Idaho cattle association. The fees collected under the provisions of this subsection (b) shall be deposited in the sheep-commission Idaho sheep and goat health board account, and the board of ~~sheep-commissioners~~ shall quarterly transmit the proper share of such moneys to the board of directors of each animal damage control district. The provisions of section 67-3525, Idaho Code, shall not apply to the payment of moneys from the sheep-commission Idaho sheep and goat health board account to the animal damage control districts.

(c) The state brand inspector shall be reimbursed for the reasonable and necessary expenses incurred for the collections required in this section, in an amount determined by the administrator of the division of animal industries, a representative of the Idaho cattle association and the inspector, but the total of such expense reimbursement for the fees collected as required in subsections (a) and (b) of this section shall not exceed one and one-quarter cents (1 1/4¢) per head.

SECTION 25. That Section 25-2612A, Idaho Code, be, and the same is hereby amended to read as follows:

25-2612A. DUTIES AND POWERS OF THE STATE ANIMAL DAMAGE CONTROL BOARD. (1) There is hereby created a state animal damage control board. The chairman of the Idaho sheep and goat health board of ~~sheep-commissioners~~ shall be a voting member and serve as the chairman of the state animal damage control board which shall have such duties and powers relating to the prevention and control of damage caused by predatory animals and other vertebrate pests, including threatened or endangered wildlife, within the state of Idaho as are established by federal or state law, federal or state rule or regulation, or county ordinance. It is hereby made the duty of the state animal damage control board to coordinate and give general direction to programs to prevent and control damage or conflicts on federal, state, or other public or private lands caused by predatory animals, rodents, or birds injurious to animal husbandry, agriculture, horticulture, forestry, wildlife and human health or safety; and also to facilitate, coordinate or conduct such investigations, experiments or tests as deemed necessary to determine, demonstrate and promulgate the best methods of predatory

animals and other vertebrate pest control. In carrying out these duties, the board may cooperate with federal, state, county, city and private agencies, organizations or individuals; provided, however, that the authority of this board is not to supersede the state fish and game department or the responsible federal agency in the utilization of the funds of those two (2) agencies in their conduct of similar work within the state of Idaho, but the board shall cooperate and work with these two (2) agencies. Prevention and control of predatory animals and other vertebrate pests does not include the payment of compensation for damages.

(2) In addition to the chairman, the state animal damage control board shall consist of a member appointed by the president of the Idaho cattle association, the director of the state department of agriculture, the director of the state department of fish and game, and the chairman of the board of directors of each of the five (5) animal damage control districts.

(3) The state animal damage control board shall have as its primary duties the coordination of the control efforts of the five (5) animal damage control districts; the establishment of general policies for the control programs; the establishment of annual priorities for control efforts; and the assignment or distribution of moneys made available to the board from any source. All contracts or agreements for providing prevention and control services which involve an expenditure of moneys from the state animal damage control board shall be in writing and shall be maintained as a part of the official records of the board.

(4) ~~The state board of sheep commissioners Idaho sheep and goat health board~~ shall provide staff, administrative and fiscal services for the animal damage control board.

SECTION 26. That Section 67-5303, Idaho Code, be, and the same is hereby amended to read as follows:

67-5303. APPLICATION TO STATE EMPLOYEES. All departments of the state of Idaho and all employees in such departments, except those employees specifically defined as nonclassified, shall be classified employees, who are subject to this chapter and to the system of personnel administration which it prescribes. Nonclassified employees shall be:

(a) Members of the state legislature and all other officers of the state of Idaho elected by popular vote, and persons appointed to fill vacancies in elective offices, and employees of the state legislature.

(b) Members of statutory boards and commissions and heads of departments appointed by and serving at the pleasure of the governor, deputy directors appointed by the director and members of advisory boards and councils appointed by the departments.

(c) All employees and officers in the office, and at the residence, of the governor; and all employees and officers in the offices of the lieutenant governor, secretary of state, attorney general, state treasurer, state controller, and state superintendent of public instruction who are appointed on and after the effective date of this chapter.

(d) Except as otherwise provided by law, not more than one (1) declared position for each board or commission and/or head of a participating department in addition to those declared to be nonclassified by other provisions of law.

(e) Part-time professional consultants who are paid on a fee basis for any form of legal, medical or other professional service, and who are not engaged in the performance of administrative duties for the state.

(f) Judges, temporary referees, receivers and jurors.

(g) All employees of the Idaho supreme court, Idaho court of appeals and district courts.

(h) All employees of the Idaho state bar.

(i) Assistant attorneys general attached to the office of the attorney general.

(j) Officers, members of the teaching staffs of state educational institutions, the professional staff of the Idaho department of education administered by the board of regents and the board of education, and the professional staffs of the Idaho division of professional-technical education and vocational rehabilitation administered by the state board for professional-technical education. "Teaching staff" includes teachers, coaches, resident directors, librarians and those principally engaged in academic research. The word "officer" means presidents, vice presidents, deans, directors, or employees in positions designated by the state board who receive an annual salary of not less than step "A" of the pay grade equivalent to three hundred fifty-five (355) Hay points in the state compensation schedule. A nonclassified employee who is designated as an "officer" on July 5, 1991, but does not meet the requirements of this subsection, may make a one (1) time irrevocable election to remain nonclassified. Such an election must be made not later than August 2, 1991. When such positions become vacant, these positions will be reviewed and designated as either classified or nonclassified in accordance with this subsection.

(k) Employees of the military division.

(l) Patients, inmates or students employed in a state institution.

(m) Persons employed in positions established under federal grants, which, by law, restrict employment eligibility to specific individuals or groups on the basis of nonmerit selection requirements. Such employees shall be termed "project exempt" and the tenure of their employment shall be limited to the length of the project grant, or twenty-four (24) months, or four thousand one hundred sixty (4,160) hours of credited state service, whichever is of the shortest duration. No person hired on a project-exempt appointment shall be employed in any position allocated to the classified service.

(n) Temporary employees.

(o) All employees and officers of the following named commodity commissions, and all employees and officers of any commodity commission created hereafter: the Idaho potato commission, as provided in chapter 12, title 22, Idaho Code; the Idaho honey advertising commission, as provided in chapter 28, title 22, Idaho Code; the Idaho bean commission, as provided in chapter 29, title 22, Idaho Code; the Idaho hop grower's commission, as provided in chapter 31, title 22, Idaho Code; the Idaho wheat commission, as provided in chapter 33, title 22, Idaho Code; the Idaho pea and lentil commission, as provided in chapter 35, title 22, Idaho Code; the Idaho apple commission, as provided in chapter 36, title 22, Idaho Code; the Idaho cherry commission, as provided in chapter 37, title 22, Idaho Code; the Idaho mint grower's commission, as provided in chapter 38, title 22, Idaho Code; the ~~state board of sheep commissioners~~ Idaho sheep and goat health board, as provided in chapter 1, title 25, Idaho Code; the state brand inspector, and all district supervisors, as provided in chapter 11, title 25, Idaho Code; the Idaho beef council, as provided in chapter 29, title 25, Idaho Code; and the Idaho dairy products commission, as provided in chapter 31, title 25, Idaho Code.

(p) All inspectors of the fresh fruit and vegetable inspection service of the Idaho department of agriculture, except those positions involved in the management of the program.

(q) All employees of correctional industries within the department of correction.

(r) All deputy administrators and wardens employed by the department of correction. Deputy administrators are defined as only the deputy administrators working directly for the nonclassified division administrators under the director of the department of correction.

(s) All public information positions with the exception of secretarial positions, in any department.

- (t) Any division administrator.
- (u) Any regional administrator or division administrator in the department of environmental quality.
- (v) All employees of the division of financial management.
- (w) All employees of the Idaho food quality assurance institute.
- (x) The state appellate public defender, deputy state appellate public defenders and all other employees of the office of the state appellate public defender.
- (y) All quality assurance specialists or medical investigators of the Idaho board of medicine.
- (z) All pest survey and detection employees and their supervisors hired specifically to carry out activities under the Idaho plant pest act, chapter 20, title 22, Idaho Code, including but not limited to pest survey, detection and eradication, except those positions involved in the management of the program.

Approved March 26, 2012.

CHAPTER 118
(H.B. No. 396)

AN ACT

RELATING TO WATER; TO PROVIDE THAT THE IDAHO WATER RESOURCE BOARD HAS PREPARED AND ADOPTED THE COMPREHENSIVE AQUIFER MANAGEMENT PLAN FOR THE RATHDRUM PRAIRIE AQUIFER AS A COMPONENT OF THE COMPREHENSIVE STATE WATER PLAN, TO PROVIDE THAT THE COMPREHENSIVE AQUIFER MANAGEMENT PLAN FOR THE RATHDRUM PRAIRIE AQUIFER IS APPROVED AS A COMPONENT OF THE COMPREHENSIVE STATE WATER PLAN AND TO PROVIDE THAT STATE AGENCIES SHALL EXERCISE DUTIES IN A MANNER CONSISTENT WITH THE COMPREHENSIVE AQUIFER MANAGEMENT PLAN.

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

SECTION 1. Pursuant to Sections 42-1734A and 42-1779, Idaho Code, the Idaho Water Resource Board has prepared and, by resolution dated July 29, 2011, adopted the Comprehensive Aquifer Management Plan for the Rathdrum Prairie Aquifer as a component of the Comprehensive State Water Plan. Pursuant to Section 42-1734B(6), Idaho Code, the Comprehensive Aquifer Management Plan for the Rathdrum Prairie Aquifer ("RP CAMP") is approved as a component of the Comprehensive State Water Plan, and pursuant to Section 42-1734B(4), Idaho Code, all state agencies shall exercise their duties in a manner consistent with the RP CAMP.

Approved March 26, 2012.

CHAPTER 119
(H.B. No. 397)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-201A, IDAHO CODE, TO PROVIDE THAT IF ONLY ONE QUALIFIED CANDIDATE HAS BEEN NOMINATED FOR A POSITION TO BE FILLED IN AN ELECTION FOR DIRECTORS, IT SHALL NOT BE NECESSARY TO HOLD AN ELECTION FOR THAT POSITION, TO REVISE TIME PROVISIONS

RELATING TO THE DECLARATION OF CERTAIN CANDIDATES ELECTED AS DIRECTORS, TO PROVIDE THAT THE SECRETARY OF THE DISTRICT SHALL TAKE CERTAIN ACTION FOLLOWING THE BOARD'S DECLARATION AND TO CLARIFY VERBIAGE ASSOCIATED WITH THE SIGNING OF CERTIFICATES OF ELECTION.

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

SECTION 1. That Section 43-201A, Idaho Code, be, and the same is hereby amended to read as follows:

43-201A. WHEN ELECTION NOT REQUIRED. In any election for directors if, after the expiration of the date for filing written nominations for the office of director, it appears that only one (1) qualified candidate has been nominated thereby for each a position to be filled, it shall not be necessary to hold an election for that position, and the board of directors shall ~~within five (5) days after expiration of the date for filing written nominations~~ declare such candidate elected as director. at the next regularly scheduled board meeting following the expiration of the date for filing written nominations. Following the board's declaration, ~~t~~the secretary shall immediately make and deliver to such person a certificate of election signed by him or her and bearing the seal of the district. The procedure set forth in this section shall not apply to any other irrigation district election.

Approved March 26, 2012.

CHAPTER 120
(H.B. No. 399)

AN ACT

RELATING TO APPLICATIONS TO APPROPRIATE WATER; AMENDING SECTION 42-202, IDAHO CODE, TO PROVIDE THAT IF THE USE OF DIVERSION WORKS OR AN IRRIGATION SYSTEM IS REPRESENTED BY SHARES OF STOCK IN A CORPORATION OR IF SUCH WORKS OR SYSTEM IS OWNED OR MANAGED BY AN IRRIGATION DISTRICT, APPLICATIONS SHALL NOT BE APPROVED BY THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES WITHOUT THE CONSENT OF SUCH CORPORATION OR IRRIGATION DISTRICT.

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

SECTION 1. That Section 42-202, Idaho Code, be, and the same is hereby amended to read as follows:

42-202. APPLICATION TO APPROPRIATE WATER -- CONTENTS -- FILING FEES -- DISPOSITION OF FEES -- RECORD OF RECEIPTS. (1) For the purpose of regulating the use of the public waters and of establishing by direct means the priority right to such use, any person, association or corporation hereafter intending to acquire the right to the beneficial use of the waters of any natural streams, springs or seepage waters, lakes or ground water, or other public waters in the state of Idaho, shall, before commencing of the construction, enlargement or extension of the ditch, canal, well, or other distributing works, or performing any work in connection with said construction or proposed appropriation or the diversion of any waters into a natural channel, make an application to the department of water resources for a permit to make such appropriation. Provided however, if the use of the diversion works or irrigation system is represented by shares of stock in a corporation or if such works or system is owned or managed by an irrigation district, no such application may be approved by the director of the department of water

resources without the consent of such corporation or irrigation district.
Such application must set forth:

- (a) The name and post-office address of the applicant.
- (b) The source of the water supply.
- (c) The nature of the proposed use or uses and the period of the year during which water is to be used for such use or uses.
- (d) The location of the point of diversion and description of the proposed ditch, channel, well or other work and the amount of water to be diverted and used.
- (e) The time required for the completion of construction of such works and application of the water to the proposed use.

(2) An application proposing an appropriation of water by a municipal provider for reasonably anticipated future needs shall be accompanied by sufficient information and documentation to establish that the applicant qualifies as a municipal provider and that the reasonably anticipated future needs, the service area and the planning horizon are consistent with the definitions and requirements specified in this chapter. The service area need not be described by legal description nor by description of every intended use in detail, but the area must be described with sufficient information to identify the general location where the water under the water right is to be used and the types and quantity of uses that generally will be made.

(3) Whenever it is desired to appropriate and store flood or winterflow waters, the applicant shall specify in acre feet the quantity of such flood or winterflow waters which he intends to store, but for irrigation purposes he shall not claim more than five (5) acre feet of stored water per acre of land to be irrigated, nor, in the event of the filing of an application claiming both normal flow and flood water and winterflow water, shall the total amount of water claimed exceed the equivalent of a continuous flow during the irrigation season of more than one (1) cubic foot per second for each fifty (50) acres of land to be irrigated, or more than five (5) acre feet of stored water for each acre of land to be irrigated.

(4) The application shall be accompanied by a plan and map of the proposed works for the diversion and application of the water to a beneficial use, showing the character, location and dimensions of the proposed reservoirs, dams, canals, ditches, pipelines, wells and all other works proposed to be used by them in the diversion of the water, and the area and location of the lands proposed to be irrigated, or location of place of other use.

(5) If the application involves more than twenty-five (25) cubic feet per second of water or the development of more than five hundred (500) theoretical horsepower, or impoundment of water in a reservoir with an active storage capacity in excess of ten thousand (10,000) acre feet, the applicant may be required by the director of the department of water resources to furnish a statement of the financial resources of the corporation, association, firm or person making the application, and the means by which the funds necessary to construct the proposed works are to be provided, and the estimated cost of construction; and if such application is made by a corporation, the amount of its capital stock, how much thereof has been actually paid in, and the names and places of residence of its directors; and if for the generation of power or any other purpose than irrigation or domestic use, the purpose for which it is proposed to be used, the nature, location, character, capacity and estimated cost of the works, and whether the water used is to be and will be returned to the stream, and if so, at what point on the stream.

(6) In case the proposed right of use is for agricultural purposes, the application shall give the legal subdivisions of the land proposed to be irrigated, with the total acreage to be reclaimed as near as may be; provided, that no one shall be authorized to divert for irrigation purposes more than one (1) cubic foot of water per second of the normal flow for each fifty (50) acres of land to be so irrigated, or more than five (5) acre feet of stored water per annum for each acre of land to be so irrigated, unless it can be

shown to the satisfaction of the department of water resources that a greater amount is necessary. Provided further, that the plan of irrigation submitted shall provide for the distribution of water to within not more than one (1) mile of each legal subdivision of the land proposed to be reclaimed by the use of such water; provided also, that in the case of all ditches designed to have a capacity of ten (10) cubic feet per second or less, such map showing the location of such ditch, and the place of use of such water, or the location of the lands to be irrigated, may be upon blanks furnished by the department of water resources.

(7) No application shall be accepted and filed by the department of water resources until the applicant shall have deposited with the department a filing fee as in this chapter provided.

(8) All moneys received by the department of water resources under the provisions of this chapter shall be deposited with the state treasurer, and such sums as may be necessary shall be available for the payment of the expenses of the department of water resources incurred in carrying out the provisions of this chapter.

(9) Such expense shall be paid by the state controller in the manner provided by law, upon vouchers duly approved by the state board of examiners, for the work performed under the direction of the department of water resources. The department of water resources shall keep a record of all filing fees received in connection with applications for permits to appropriate public waters.

(10) Provided further, that rights initiated prior to the enactment of this amendment, so far as it pertains to flood and winterflow waters, shall not be affected thereby.

(11) Provided further, that water rights held by municipal providers prior to July 1, 1996, shall not be limited thereby.

Approved March 26, 2012.

CHAPTER 121
(H.B. No. 400)

AN ACT

RELATING TO ALTERATION OF CHANNELS OF STREAMS; AMENDING SECTION 42-3809, IDAHO CODE, TO PROVIDE THAT NO CIVIL OR ADMINISTRATIVE PROCEEDINGS FOR VIOLATION OF SPECIFIED LAW OR VIOLATION OF ANY RULE, PERMIT OR ORDER ISSUED OR PROMULGATED PURSUANT TO SPECIFIED LAW MAY BE BROUGHT MORE THAN TWO YEARS AFTER THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES HAD KNOWLEDGE OR OUGHT REASONABLY TO HAVE HAD KNOWLEDGE OF THE VIOLATION.

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

SECTION 1. That Section 42-3809, Idaho Code, be, and the same is hereby amended to read as follows:

42-3809. PENALTY FOR VIOLATION -- ENFORCEMENT PROCEDURE -- INJUNCTIVE RELIEF. (1) Any person who violates any of the provisions of this chapter, any regulation, rule, order or standard of the board promulgated pursuant to section 42-3803, Idaho Code, or of any order or condition of approval of the director issued pursuant thereto, where a copy of the order has been served upon said person in person or by certified mail and said person fails to comply therewith within the time therein provided, or within ten (10) days of such service if not otherwise provided, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred fifty dollars (\$150) nor more than five hundred dollars (\$500); provided further, that each day such violation of an order or condition of approval has taken

place shall constitute a separate offense punishable by a fine of not less than one hundred fifty dollars (\$150) for each day until such activity is abated or voluntarily ceased. Any stream channel alteration engaged in by any person without approval having been obtained therefor as prescribed in this act is hereby declared to be a public nuisance and shall be subject to proceedings for immediate abatement.

(2) When the director of the department of water resources determines that any person is in substantial violation of any provision of this chapter or any rule, permit, certificate, condition of approval or order issued or promulgated pursuant to this chapter, the director may commence an administrative enforcement action by issuing a written notice of violation in accordance with the provisions of section 42-1701B, Idaho Code. Provided however, that no civil or administrative proceeding may be brought to recover for a violation of any provision of this chapter or a violation of any rule, permit or order issued or promulgated pursuant to this chapter, more than two (2) years after the director had knowledge or ought reasonably to have had knowledge of the violation. The director shall have authority and it shall be his duty to seek a temporary injunction from the appropriate district court to restrain a person from altering a stream channel until approval therefor has been obtained by the person as provided in this act.

Approved March 26, 2012.

CHAPTER 122
(H.B. No. 401)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING CHAPTER 11, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1122, IDAHO CODE, TO PROVIDE A PROCEDURE FOR THE TRANSFER OF LANDS BETWEEN DISTRICTS; AMENDING CHAPTER 11, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1123, IDAHO CODE, TO PROVIDE FOR THE CONTENT OF RESOLUTIONS REGARDING THE TRANSFER OF LANDS BETWEEN DISTRICTS; AMENDING CHAPTER 11, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1124, IDAHO CODE, TO PROVIDE FOR NOTICE; AMENDING CHAPTER 11, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1125, IDAHO CODE, TO PROVIDE FOR THE CONTENT OF THE NOTICE; AMENDING CHAPTER 11, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1126, IDAHO CODE, TO PROVIDE FOR HEARING; AMENDING CHAPTER 11, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1127, IDAHO CODE, TO PROVIDE FOR ORDERS AND DETERMINATIONS; AMENDING CHAPTER 11, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1128, IDAHO CODE, TO PROVIDE FOR THE ENTRY OF ORDERS, TO PROVIDE REQUIREMENTS FOR ORDERS OF EXCLUSION, TO PROVIDE FOR THE DELIVERY OF COPIES OF EXCLUSION ORDERS TO ANNEXING DISTRICTS, TO PROVIDE FOR ORDERS OF ANNEXATION AND TO PROVIDE FOR RECORDING OF ORDERS; AMENDING CHAPTER 11, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1129, IDAHO CODE, TO PROVIDE FOR THE EFFECT OF ORDERS; AMENDING CHAPTER 11, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1130, IDAHO CODE, TO PROVIDE FOR APPEALS AND TO PROVIDE A PROCEDURE; AND AMENDING CHAPTER 11, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1131, IDAHO CODE, TO PROVIDE FOR COSTS.

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

SECTION 1. That Chapter 11, 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 43-1122, Idaho Code, and to read as follows:

43-1122. TRANSFER OF LANDS BETWEEN DISTRICTS. The boards of directors of two (2) irrigation districts may by resolution declare and act upon their proposal to transfer lands from one (1) district to the other through exclusion and annexation in accordance with sections 43-1122 through 43-1129, Idaho Code. The district from which lands are proposed to be excluded shall be identified as the "excluding district." The district to which lands are proposed to be annexed shall be identified as the "annexing district."

SECTION 2. That Chapter 11, 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 43-1123, Idaho Code, and to read as follows:

43-1123. RESOLUTION -- CONTENTS. The districts proposing to transfer lands as authorized by section 43-1122, Idaho Code, shall adopt a resolution, either separately or jointly, which shall:

- (1) Identify the excluding district and the annexing district;
- (2) Provide a legal description of each lot or parcel proposed to be transferred;
- (3) Specify the name and address of each person in possession of each such lot or parcel and of each owner thereof as the ownership appears of record in the assessment rolls of the district and of each owner thereof as the ownership appears of record in the office of the county recorder of the county in which the land is situated and of each mortgagee and other lienholder whose mortgage or lien appears of record in the office of the county recorder of the county in which the land is situated;
- (4) Explain the reasons for the transfer including, but not limited to, that the transfer is in the best interests of the owner of the land proposed to be transferred and of the districts;
- (5) Describe the benefits that will be apportioned and provided to the proposed transferred lands by the annexing district;
- (6) Provide a statement of applicable levies by the annexing district in the year prior to the proposed transfer;
- (7) Describe the proposed method of water delivery from the annexing district to the lands proposed to be transferred;
- (8) Identify obligations of the excluding district that will continue to apply to the lands to be transferred;
- (9) State whether the lands proposed to be transferred will be retained within the excluding district for drainage purposes;
- (10) Fix the date, time and place for hearing on the proposed transfer, which time shall be not less than twenty-eight (28) days from the date of the adoption of the resolution(s); and
- (11) Recite any other information the districts deem to be pertinent to the proposed transfer.

SECTION 3. That Chapter 11, 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 43-1124, Idaho Code, and to read as follows:

43-1124. NOTICE. The secretaries of the excluding and annexing districts shall publish and provide notice of the hearing on the proposed transfer in the manner described in section 43-1112, Idaho Code. The secretaries may publish and provide such notice separately or jointly.

SECTION 4. That Chapter 11, 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 43-1125, Idaho Code, and to read as follows:

43-1125. NOTICE -- CONTENTS. The notice required by section 43-1124, Idaho Code, shall contain:

- (1) The information identified in section 43-1123, Idaho Code; and
- (2) Notice to each person, firm, corporation and other legal entity interested in the proposed transfer to appear at the district office at the date and time fixed, and file objections in writing showing cause, if any they may have, why the land or any part of it should not be transferred as proposed in the resolution(s) of the boards of directors.

SECTION 5. That Chapter 11, 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 43-1126, Idaho Code, and to read as follows:

43-1126. HEARING. The boards of directors of the districts may hold separate hearings or a joint hearing on the proposed transfer. At such hearing(s), the boards of directors shall hear all of the objections presented to them in writing and all evidence introduced in support of the transfer and in support of the objections to the transfer.

SECTION 6. That Chapter 11, 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 43-1127, Idaho Code, and to read as follows:

43-1127. ORDERS -- DETERMINATIONS. After the hearing(s) on the transfer proposal, the boards of directors of the districts shall order the transfer of all or any part of the land described in the resolution when as to the lands to be excluded they determine that:

- (1) The transfer is in the best interests of the owner of the lands to be transferred and of the district;
- (2) The annexing district will apportion and provide comparable benefits to the lands to be transferred;
- (3) There will be no interruption in the delivery of water to the lands to be transferred as a result of the transfer; and
- (4) The ditch rights of other landowners in the same lateral ditch water users' association in the excluding district will not be injured.

SECTION 7. That Chapter 11, 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 43-1128, Idaho Code, and to read as follows:

43-1128. ENTRY AND RECORDING OF ORDERS. If the boards of directors determine from the hearing that all or part of the lands described in the resolution should be transferred from one (1) district to another, the boards shall enter orders as follows:

- (1) The board of the excluding district shall make and enter an order of exclusion that:
 - (a) Describes each lot or parcel being transferred;
 - (b) Changes the boundaries of the district to exclude such lands;
 - (c) States that the excluded lands shall not be entitled to receive water from the water rights or irrigation system of the excluding district;
 - (d) States that the excluded lands shall remain part of the excluding district for drainage purposes if the excluded lands will continue to receive drainage benefits from the excluding district;
 - (e) Identifies the obligations of the excluding district that will continue to apply to the lands to be transferred;
 - (f) Recites any other information the districts deem to be pertinent to the proposed transfer; and
 - (g) Provides that the order shall not become effective until the annexing district enters an order annexing the lands described in the exclusion order.

(2) The secretary of the excluding district shall deliver a copy of the exclusion order to the annexing district.

(3) As soon as practicable after receiving the exclusion order, the annexing district shall make and enter an order that the lands described in the exclusion order be annexed to the annexing district.

(4) After the annexing district has entered its order of annexation, copies of the orders of exclusion and annexation, certified by the presidents and secretaries of the districts, shall be recorded in the office(s) of the county recorder(s) of each county wherein any portion of the transferred lands are situated.

SECTION 8. That Chapter 11, 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 43-1129, Idaho Code, and to read as follows:

43-1129. EFFECT OF ORDERS. The order excluding the transferred lands from the excluding district shall have the same effect described in sections 43-1109 and 43-1119, Idaho Code. The order annexing the transferred lands to the annexing district shall have the same effect described in section 43-1009, Idaho Code.

SECTION 9. That Chapter 11, 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 43-1130, Idaho Code, and to read as follows:

43-1130. APPEALS -- PROCEDURE. An appeal shall lie from the orders of the boards of directors transferring lands covered by the procedures pursuant to sections 43-1122 through 43-1128, Idaho Code, and from any part of such orders. The appeal may be taken by any landowner in the excluding district or in the annexing district and by any person, firm, corporation or other entity having any interest in any tract of land included in such orders. The appeal shall be to the district court of the county where the lands involved in the appeal are located. The appeal shall be taken and shall be subject to the appeal provisions of section 43-719(4) and (5), Idaho Code.

SECTION 10. That Chapter 11, 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 43-1131, Idaho Code, and to read as follows:

43-1131. COSTS. All costs incurred by the districts in the transfer process provided by sections 43-1122 through 43-1128, Idaho Code, shall be divided equally between the districts, unless the districts agree upon a different apportionment of costs.

Approved March 26, 2012.

CHAPTER 123
(H.B. No. 513)

AN ACT

RELATING TO HONEY; AMENDING SECTION 22-2802, IDAHO CODE, TO REVISE THE DECLARATION OF POLICY AND PURPOSE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-2803, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE TERMS; AMENDING SECTION 22-2807, IDAHO CODE, TO REVISE THE DUTIES OF THE IDAHO HONEY ADVERTISING COMMISSION AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 28, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-2808, IDAHO CODE, TO PROVIDE FOR RULEMAKING; AMENDING SECTION 22-2808, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE

VERBIAGE, TO REVISE A CODE REFERENCE, TO REMOVE PROVISIONS RELATING TO RULEMAKING AND TO REMOVE PROVISIONS RELATING TO VIOLATIONS AND PENALTIES; AMENDING CHAPTER 28, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-2810, IDAHO CODE, TO PROVIDE THAT CERTAIN PERSONS MAY ENTER ANY FACTORY, WAREHOUSE OR ESTABLISHMENT IN WHICH HONEY IS PROCESSED, PACKED OR HELD FOR DISTRIBUTION OR ANY VEHICLE BEING USED TO TRANSPORT HONEY FOR THE PURPOSE OF SAMPLING THE HONEY, TO PROVIDE FOR INSPECTIONS, TO PROVIDE FOR SAMPLING AND ANALYSIS METHODS, TO PROVIDE FOR DETERMINATIONS OF ADULTERATION BASED ON OFFICIAL SAMPLES, TO PROVIDE FOR WARRANTS DIRECTING THAT PREMISES BE SUBMITTED TO INSPECTION, TO PROVIDE FOR ENTRY UPON ANY PUBLIC OR PRIVATE PREMISES INCLUDING VEHICLES OF TRANSPORT FOR THE PURPOSE OF SAMPLING HONEY AND EXAMINING AND COPYING CERTAIN RECORDS, TO PROVIDE FOR FORWARDING OF RESULTS OF ANALYSES OF OFFICIAL SAMPLES TO PACKERS, PURCHASERS AND RETAILERS AND TO PROVIDE THAT PORTIONS OF SAMPLES SHALL BE FURNISHED TO CERTAIN PACKERS, PURCHASERS AND RETAILERS; AMENDING CHAPTER 28, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-2811, IDAHO CODE, TO PROVIDE PENALTIES FOR VIOLATIONS AND TO PROVIDE FOR WARNINGS AND OTHER ADMINISTRATIVE ACTION IN REGARD TO MINOR VIOLATIONS; AMENDING CHAPTER 28, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-2812, IDAHO CODE, TO PROVIDE FOR STOP SALE, USE, OR REMOVAL ORDERS, TO PROVIDE FOR THE SEIZURE OF CERTAIN HONEY, TO PROVIDE FOR THE DISPOSAL OF CONDEMNED HONEY AND TO PROVIDE THAT CLAIMANTS SHALL BE GIVEN AN OPPORTUNITY TO APPLY TO THE COURT FOR RELEASE OF HONEY OR FOR PERMISSION TO PROCESS OR RELABEL HONEY; AMENDING SECTION 22-2809, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE VERBIAGE; AMENDING SECTION 22-2810, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE VERBIAGE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 22-2811, IDAHO CODE, TO REDESIGNATE THE SECTION.

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

SECTION 1. That Section 22-2802, Idaho Code, be, and the same is hereby amended to read as follows:

22-2802. DECLARATION OF POLICY AND PURPOSE OF ACT CHAPTER. It is hereby declared, as a matter of legislative determination, that the honey industry of Idaho is in dire need of concentrated state and national advertising and promotion to increase the consumption of honey; that other states are promulgating advertising and promotion ~~campaigns~~ campaigns for the betterment of the honey industry; that honey is an essential food and its use should be placed in name and fact before the ~~housewives~~ people of America; that in the interest of public welfare and general prosperity of the people of the state of Idaho, the honey industry and beekeeping in general should be maintained and encouraged so that the many food values and quality of honey and the many pollinating values of the domesticated honey bees may be better understood, protected and greater use thereof made.

SECTION 2. That Section 22-2803, Idaho Code, be, and the same is hereby amended to read as follows:

22-2803. DEFINITIONS. Whenever used or referred to in this act chapter, unless a different meaning clearly appears from the context:

(1-) ~~The term~~ "eCommission" means the Idaho honey advertising commission.

(2-) ~~The term~~ "hHoney producer" or "beekeeper" means a person, firm or corporation engaged in the art of raising, harboring, keeping or breeding domesticated honey bees either for the purpose of gathering honey or the production of queens and/or packaged bees.

(3-) "Honey by-products" means items using honey as a base such as creamed honey, whipped honey, or the like.

(4) "Packer" means any honey producer or beekeeper or person who processes and packs honey for commercial retail sales.

(5) "Person" includes an individual, partnership, corporation, firm, association and agent.

(6) "Director" means the director of the Idaho state department of agriculture or his designated representative.

(7) "Official sample" means a sample of honey taken by the director or an authorized agent in accordance with the provisions of section 22-2810, Idaho Code.

SECTION 3. That Section 22-2807, Idaho Code, be, and the same is hereby amended to read as follows:

22-2807. DUTIES. The commission shall set honey quality, identity and labeling standards by rule, plan and conduct a campaign for honey and honey byproduct by-product advertising, publicity, merchandising, sales promotion and research, including bee research, and public education of beekeeping and honey production, by contracting with a service of the hereinabove mentioned, or jointly with any university or other state agency or states of the United States and its territories, or individually.

SECTION 4. That Chapter 28, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-2808, Idaho Code, and to read as follows:

22-2808. RULES, STANDARDS, DEFINITIONS. The commission is hereby charged with the enforcement of this chapter, and after due publicity and due public hearing is empowered to promulgate and adopt such reasonable rules as may be necessary to carry into effect the full intent and meaning of this chapter, including the establishment of fees for services. The commission is hereby empowered to adopt rules establishing definitions for honey including establishing standards of identity, quality and labeling and such other rules as may be necessary for the enforcement of any provision of this chapter. In establishing standards of identity, quality and labeling the commission shall give consideration to any definitions and standards used by a federal agency, another state or an organization administering a regional, multi-regional, national or international agreement on honey.

SECTION 5. That Section 22-2808, Idaho Code, be, and the same is hereby amended to read as follows:

22-28089. LEVY AND COLLECTION OF TAXES -- CHANGE OF TAX BY REFERENDUM -- VIOLATIONS -- PENALTY. (a) There is hereby levied and imposed upon each colony or hive of bees within the state of Idaho on July 1 of each year a continuing annual tax of five cents (5¢) per hive or colony of bees beginning in the year 1970 for the purpose of carrying out the provisions of this chapter 28, title 22, Idaho Code. Hobbyist beekeepers, as defined in chapter 25, title 22, Idaho Code, are exempt from taxation under this section. Provided however, that any hobbyist beekeeper who desires to support the efforts of the commission, as set forth in section 22-2807, Idaho Code, and desires to be included in registration lists distributed as authorized under section 22-28115, Idaho Code, may register with the commission for that purpose by remitting an annual registration fee of ten dollars (\$10.00).

(b) The tax may be decreased to not less than three cents (3¢) per hive or colony per year or it may be increased to not more than ten cents (10¢) per hive or colony per year, if approved by a majority of the beekeepers voting in a referendum held for the purpose of determining whether such levy of the tax

shall or shall not be changed. If the levy of the tax is changed, the levy of the tax will continue annually at the changed rate until again changed by another referendum. Any resident of Idaho who is a registered Idaho beekeeper with the department of agriculture may vote at such referendum. Any referendum held for the purpose of changing the levy of such tax shall be held at the annual meeting of the Idaho honey industry association or any successor organization to this group.

(c) Notice of the tax provided for in this section shall be mailed no later than June 1 and the tax shall be due and payable on or before July 1 of each year, and it shall be collected by the Idaho department of agriculture and shall forthwith be paid over by the Idaho department of agriculture to the Idaho honey advertising fund.

(d) Said tax shall be a lien upon all apicultural products, equipment, bees and property of the person owning or controlling such bees and shall be prior to all other liens or encumbrances except liens which are declared prior by operation of the statutes of this state.

~~(e) The Idaho honey advertising commission may promulgate the necessary rules and forms to implement and carry out this section.~~

~~(f) Any person who shall violate the provisions of this section or the rules promulgated under it shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than three hundred dollars (\$300) or imprisonment for a period not to exceed ninety (90) days, or both such fine and imprisonment, and all fines collected for violation of this section shall be paid into the Idaho honey advertising fund.~~

SECTION 6. That Chapter 28, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-2810, Idaho Code, and to read as follows:

22-2810. SAMPLING AND ANALYSIS. (1) For the purpose of enforcement of this chapter, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the director or commission upon presenting appropriate credentials, to the owner, operator, or agent in charge, are authorized upon written complaint:

(a) To enter, during normal business hours, any factory, warehouse, or establishment within the state in which honey is processed, packed, or held for distribution for retail sales, or to enter any vehicle being used to transport or hold such honey, and sample such honey that is packaged and labeled for retail sale.

(b) To inspect at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein, related to retail sales. The inspection may include the verification of only such records, and production and control procedures as may be necessary to determine compliance with the good manufacturing practice rules established under the provisions of this chapter. Each inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.

(2) Sampling and analysis shall be conducted in accordance with methods prescribed in rules, or in accordance with other generally recognized methods.

(3) The director or commission, in determining for administrative purposes whether a honey is adulterated, shall be guided by the official sample as defined in subsection (7) of section 22-2803, Idaho Code, and obtained and analyzed as provided for in this section.

(4) If the owner of any factory, warehouse, or establishment described in subsection (1) of this section, or authorized agent, refuses to admit the

director, commission or an authorized agent to inspect in accordance with subsections (1) and (5) of this section, the director or commission is authorized to obtain from any state court of competent jurisdiction a warrant directing such owner or agent to submit the premises described in such warrant to inspection.

(5) For the enforcement of this chapter, the director, commission or a duly authorized agent is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine and make copies of records relating to distribution of honey packaged and labeled for retail sale to the public.

(6) The results of all analyses of official samples shall be forwarded by the director or commission to the packer and to the purchaser or retailer. When the inspection and analysis of an official sample indicate the honey has been adulterated or mislabeled, and upon request by the packer or purchaser or retailer within thirty (30) days following the receipt of the analysis, the director or commission shall furnish to the packer or purchaser or retailer a portion of the sample concerned.

SECTION 7. That Chapter 28, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-2811, Idaho Code, and to read as follows:

22-2811. PENALTIES FOR VIOLATIONS. (1) Any person who violates any provision of this chapter, or of the rules promulgated hereunder for carrying out the provisions of this chapter, or who fails or refuses to comply with any requirements herein specified, or who interferes with the department, its agents or employees, in the execution, or on account of the execution of its or their duties under this chapter or rules promulgated hereunder, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than three thousand dollars (\$3,000) or be imprisoned in a county jail for not more than twelve (12) months or be subject to both such fine and imprisonment.

(2) Any person who violates or fails to comply with any of the provisions of this chapter or any rules promulgated hereunder may be assessed a civil penalty by the department or its duly authorized agent of not more than ten thousand dollars (\$10,000) for each offense and shall be liable for reasonable attorney's fees.

(a) Assessment of a civil penalty may be made in conjunction with any other department administrative action.

(b) No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act.

(c) If the department is unable to collect such penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the department, it may recover such amount by action in the appropriate district court.

(d) Any person against whom the department has assessed a civil penalty under the provisions of this section may, within thirty (30) days of the final action by the agency making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the department to have occurred.

(e) All civil penalties collected pursuant to this section shall be remitted to the commission.

(3) Nothing in this chapter shall be construed as requiring the commission to report minor violations for prosecution when it believes that the public interest will be best served by suitable warnings or other administrative action.

SECTION 8. That Chapter 28, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-2812, Idaho Code, and to read as follows:

22-2812. "STOP SALE, USE, OR REMOVAL" ORDERS. (1) In the event the department finds that honey is being offered for sale in violation of this chapter or rules promulgated under this chapter, the department may issue and enforce a written or printed "stop sale, use, or removal" order to the distributor, owner or custodian of the honey and hold the honey, or order it held, at a designated place until the law has been complied with and the honey is released in writing by the department, or the violation has been otherwise legally disposed of by written authority. Unless the department grants a written extension, the owner or custodian of any honey that has been issued a "stop sale, use, or removal" order shall remedy the violation within thirty (30) days. The department shall release the honey so withdrawn when the requirements of this chapter have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid.

(2) Any lot of honey not in compliance with the provisions of this chapter, or rules promulgated under this chapter, shall be subject to seizure on complaint of the commission to a court of competent jurisdiction in the area in which said honey is located. In the event the court finds the said honey to be in violation of the provisions of this chapter and orders the condemnation of said honey, it shall be disposed of in any manner consistent with the quality of the honey and the laws of the state. Provided however, that in no instance shall the disposition of said honey be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said honey or for permission to process or relabel said honey to bring it into compliance with the provisions of this chapter.

SECTION 9. That Section 22-2809, Idaho Code, be, and the same is hereby amended to read as follows:

22-280913. PAYMENT OF EXPENSES AND COSTS. All expenses and costs incurred in the administration of this act chapter shall be paid out of the Idaho honey advertising fund. The commission shall keep an accurate record of all costs and expenditures and will report the same by publication on October 1st of each year. All expenses and costs incurred and contracted for by the commission in performing its duties under this act chapter shall be paid out of such Idaho honey advertising fund in the following manner: vouchers shall be approved and submitted by the commission chairman to the director or his designated representative of the Idaho state department of agriculture for approval and subsequent issuance of a warrant by the state controller.

SECTION 10. That Section 22-2810, Idaho Code, be, and the same is hereby amended to read as follows:

22-28104. CREDITING OF FUNDS. All moneys which have heretofore been credited to the general fund under the provisions of ~~title 22, chapter 28, Idaho Code,~~ this chapter are hereby transferred to the Idaho Honey Advertising Ffund.

SECTION 11. That Section 22-2811, Idaho Code, be, and the same is hereby amended to read as follows:

22-28115. PUBLICATION OF REGISTERED BEEKEEPERS. The commission shall make available to any pesticide applicator registered with the department, abatement or pest control district, or university of Idaho county agricultural extension office, a list of beekeepers registered with the commission. The list shall include the names and telephone numbers of the beekeepers, the

counties in which they keep bees, and any other information the commission deems necessary to assist in the prevention of accidental poisoning of honeybees.

Approved March 26, 2012.

CHAPTER 124
(H.B. No. 616)

AN ACT

APPROPRIATING MONEYS TO THE COMMISSION ON THE ARTS FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Commission on the Arts, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$300,700	\$136,400	\$249,700	\$686,800
Miscellaneous Revenue				
Fund		85,900	16,300	102,200
Federal Grant				
Fund	<u>341,300</u>	<u>209,400</u>	<u>450,200</u>	<u>1,000,900</u>
TOTAL	\$642,000	\$431,700	\$716,200	\$1,789,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission on the Arts is authorized no more than ten (10) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, 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 AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been

rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved March 26, 2012.

CHAPTER 125
(H.B. No. 617)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; AND PROVIDING LEGISLATIVE INTENT.

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

SECTION 1. There is hereby appropriated to the Public Employee Retirement System 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, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. RETIREMENT ADMINISTRATION:				
FROM:				
PERSI Administrative				
Fund	\$3,382,800	\$9,027,100	\$159,400	\$12,569,300
II. PORTFOLIO INVESTMENT:				
FROM:				
PERSI Special				
Fund	\$660,800	\$195,300	\$16,600	\$872,700
GRAND TOTAL	\$4,043,600	\$9,222,400	\$176,000	\$13,442,000

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Public Employee Retirement System of Idaho is authorized no more than sixty-three (63) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, 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 AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's rec-

ommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 4. LEGISLATIVE INTENT. Notwithstanding Section 59-1311(4)(d), Idaho Code, moneys appropriated in Section 1 of this act for the Portfolio Investment Program are for administrative costs of the Portfolio Investment Program as provided in Section 59-1311(3), Idaho Code. Amounts necessary to pay all other investment expenses related to the Portfolio Investment Program are perpetually appropriated to the Public Employee Retirement System Board as provided in Section 59-1311(4)(a), (b) and (c), Idaho Code.

Approved March 26, 2012.

CHAPTER 126
(H.B. No. 618)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF HUMAN RESOURCES FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Division of Human Resources from the Division of Human Resources Fund, the following amounts to be expended for the designated expense classes, for the period July 1, 2012, through June 30, 2013:

FOR:	
Personnel Costs	\$1,007,400
Operating Expenditures	<u>673,100</u>
TOTAL	\$1,680,500

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Human Resources is authorized no more than thirteen (13) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, 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 AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved March 26, 2012.

CHAPTER 127
(S.B. No. 1350)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE LOTTERY FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING LEGISLATIVE INTENT; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Idaho State Lottery from the State Lottery Fund, the following amounts to be expended for the designated expense classes, for the period July 1, 2012, through June 30, 2013:

FOR:

Personnel Costs	\$2,739,400
Operating Expenditures	2,424,000
Capital Outlay	<u>111,200</u>
TOTAL	\$5,274,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho State Lottery is authorized no more than forty-seven (47) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. LEGISLATIVE INTENT. It is the intent of the Legislature that amounts necessary to pay prizes, retailer commissions, advertising and pro-

motional costs and gaming supplier vendor fees based on sales shall be continuously appropriated to the Idaho State Lottery under the provisions of Section 67-7428, Idaho Code.

SECTION 4. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved March 26, 2012.

CHAPTER 128
(S.B. No. 1351)

AN ACT

APPROPRIATING MONEYS TO PUBLIC HEALTH DISTRICTS FOR FISCAL YEAR 2013; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Public Health Districts \$8,136,100 from the General Fund to be transferred to the Public Health Trust Fund on July 1, 2012, or as soon thereafter as practicable.

SECTION 2. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employ-

ees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved March 26, 2012.

CHAPTER 129
(S.B. No. 1352)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR THE MEDICAL BOARDS FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Department of Self-Governing Agencies for the medical boards, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. BOARD OF DENTISTRY:				
FROM:				
State Regulatory				
Fund	\$233,000	\$236,700	\$55,000	\$524,700
II. BOARD OF MEDICINE:				
FROM:				
State Regulatory				
Fund	\$818,700	\$658,800	\$274,200	\$1,751,700
III. BOARD OF NURSING:				
FROM:				
State Regulatory				
Fund	\$617,600	\$515,700	\$2,600	\$1,135,900
IV. BOARD OF PHARMACY:				
FROM:				
State Regulatory				
Fund	\$827,800	\$570,200	\$250,000	\$1,648,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Federal Grant				
Fund	0	50,200	0	50,200
TOTAL	\$827,800	\$620,400	\$250,000	\$1,698,200

V. BOARD OF VETERINARY MEDICINE:

FROM:

State Regulatory

Fund	\$124,100	\$140,200	\$2,800	\$267,100
GRAND TOTAL	\$2,621,200	\$2,171,800	\$584,600	\$5,377,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the programs in the Medical Boards is authorized no more than the number of full-time equivalent positions listed below at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

- Board of Dentistry Three (3)
- Board of Medicine Thirteen and eight-tenths (13.8)
- Board of Nursing Ten and five-tenths (10.5)
- Board of Pharmacy Fourteen (14)
- Board of Veterinary Medicine Two (2)

SECTION 3. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved March 26, 2012.

CHAPTER 130
(S.B. No. 1353)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Division of Building Safety, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
State Regulatory				
Fund	\$8,038,200	\$1,809,200	\$201,400	\$10,048,800
Miscellaneous Revenue/Industrial Safety				
Fund	609,400	92,500	19,700	721,600
Miscellaneous Revenue/Logging				
Fund	325,100	71,600	20,900	417,600
Federal Grant				
Fund	<u>36,500</u>	<u>6,000</u>	<u>0</u>	<u>42,500</u>
TOTAL	\$9,009,200	\$1,979,300	\$242,000	\$11,230,500

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Building Safety is authorized no more than one hundred thirty-one (131) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, 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 AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs

the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved March 26, 2012.

CHAPTER 131
(S.B. No. 1354)

AN ACT

APPROPRIATING MONEYS TO THE COMMISSION ON HISPANIC AFFAIRS FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Commission on Hispanic Affairs, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General			
Fund	\$89,800	\$4,900	\$94,700
Miscellaneous Revenue			
Fund	48,700	38,800	87,500
Federal Grant			
Fund	<u>12,700</u>	<u>16,000</u>	<u>28,700</u>
TOTAL	\$151,200	\$59,700	\$210,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission on Hispanic Affairs is authorized no more than three (3) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, 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 AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employ-

ees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved March 26, 2012.

CHAPTER 132
(S.B. No. 1361)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF ENERGY RESOURCES FOR FISCAL YEAR 2012; APPROPRIATING MONEYS TO THE OFFICE OF ENERGY RESOURCES FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING NON-GENERAL FUND REAPPROPRIATION FOR FISCAL YEAR 2013; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; 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 155, Laws of 2011, and any other appropriation provided for by law, there is hereby appropriated from the listed fund to the Office of Energy Resources, the following amounts to be expended for the designated expense classes, for the period July 1, 2011, through June 30, 2012:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
American Reinvestment			
Fund	\$141,100	\$606,100	\$747,200

SECTION 2. There is hereby appropriated to the Office of Energy Resources, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
Indirect Cost Recovery			
Fund	\$280,800	\$208,200	\$489,000
Renewable Energy Resources			
Fund	296,700	75,500	372,200
Miscellaneous Revenue			
Fund	84,600	581,400	666,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
Petroleum Price Violation			
Fund	120,000	35,800	155,800
Federal Grant			
Fund	<u>222,500</u>	<u>720,800</u>	<u>943,300</u>
TOTAL	\$1,004,600	\$1,621,700	\$2,626,300

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of Energy Resources is authorized no more than fourteen (14) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. NON-GENERAL FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Office of Energy Resources the unexpended and unencumbered balance of any American Reinvestment Fund moneys and any stimulus-related Indirect Cost Recovery Fund moneys appropriated or reappropriated for fiscal year 2012, to be used for nonrecurring expenditures only, for the period July 1, 2012, through June 30, 2013.

SECTION 5. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

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 March 26, 2012.

CHAPTER 133
(S.B. No. 1367)

AN ACT

APPROPRIATING MONEYS TO THE EXECUTIVE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXEMPTING APPROPRIATION OBJECT AND PROGRAM TRANSFER LIMITATIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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, 2012, through June 30, 2013:

	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	\$1,688,800	\$198,200	\$1,887,000
III. EXPENSE ALLOWANCE:			
FROM:			
General			
Fund		\$5,000	\$5,000
GRAND TOTAL	\$1,707,000	\$203,200	\$1,910,200

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Executive Office of the Governor is authorized no more than twenty-six (26) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, 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 2013, 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, 2012, through June 30, 2013. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 4. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of

their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved March 26, 2012.

CHAPTER 134
(S.B. No. 1375)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE COMMISSION ON AGING FOR FISCAL YEAR 2012; APPROPRIATING MONEYS TO THE COMMISSION ON AGING FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 2, Chapter 208, Laws of 2011, and any other appropriation provided for by law, there is hereby appropriated \$810,800 to the Commission on Aging from the Federal Grant Fund, to be expended for trustee and benefit payments, for the period July 1, 2011, through June 30, 2012.

SECTION 2. There is hereby appropriated to the Commission on Aging, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$447,500	\$35,800	\$3,979,900	\$4,463,200
Miscellaneous Revenue				
Fund	47,000	85,000		132,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant				
Fund	<u>633,800</u>	<u>333,300</u>	<u>7,569,000</u>	<u>8,536,100</u>
TOTAL	\$1,128,300	\$454,100	\$11,548,900	\$13,131,300

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission on Aging is authorized no more than fourteen and thirty-five hundredths (14.35) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, 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 AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 26, 2012.

CHAPTER 135
(S.B. No. 1376)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE STATE INDEPENDENT LIVING COUNCIL FOR FISCAL YEAR 2012; APPROPRIATING MONEYS TO THE STATE INDEPENDENT LIVING COUNCIL FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 2, Chapter 294, Laws of 2011, and any other appropriation provided for by law, there is hereby appropriated to the State Independent Living Council, the following amounts to be expended from the listed funds for the period July 1, 2011, through June 30, 2012:

FROM:

State Independent Living Council (Ded)	
Fund	\$45,000
State Independent Living Council (Fed)	
Fund	<u>68,000</u>
TOTAL	\$113,000

SECTION 2. There is hereby appropriated to the State Independent Living Council, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
State Independent Living Council (Gen)				
Fund	\$19,600	\$78,100		\$97,700
State Independent Living Council (Ded)				
Fund	158,400	87,400		245,800
State Independent Living Council (Fed)				
Fund	<u>136,700</u>	<u>17,200</u>	<u>\$481,200</u>	<u>635,100</u>
TOTAL	\$314,700	\$182,700	\$481,200	\$978,600

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Independent Living Council is authorized no more than five (5) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, 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 AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making

satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 26, 2012.

CHAPTER 136
(S.B. No. 1382)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF SPECIES CONSERVATION FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Office of Species Conservation, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$411,400	\$61,800		\$473,200
Miscellaneous Revenue				
Fund		15,000		15,000
Federal Grant				
Fund	<u>547,500</u>	<u>195,600</u>	<u>\$12,000,000</u>	<u>12,743,100</u>
TOTAL	\$958,900	\$272,400	\$12,000,000	\$13,231,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of Species Conservation is authorized no more than twelve (12) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, 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 AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities;

directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved March 26, 2012.

CHAPTER 137
(S.B. No. 1384)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LABOR FOR FISCAL YEAR 2013; APPROPRIATING REED ACT MONEYS TO THE DEPARTMENT OF LABOR FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Department of Labor, the following amounts to be expended according to the designated 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 TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. EMPLOYMENT SERVICES:				
FROM:				
Unemployment Penalty and Interest				
Fund	\$114,900	\$750,000		\$864,900
II. WAGE AND HOUR:				
FROM:				
General				
Fund	\$233,600	\$64,500		\$298,100
Unemployment Penalty and Interest				
Fund	154,800	63,700		218,500
Miscellaneous Revenue				
Fund	0	10,600		10,600
TOTAL	\$388,400	\$138,800		\$527,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. CAREER INFORMATION SERVICES:				
FROM:				
Unemployment Penalty and Interest				
Fund	\$232,100	\$133,400		\$365,500
Employment Security Special Administration				
Fund	63,700	65,900		129,600
Miscellaneous Revenue				
Fund	<u>93,800</u>	<u>26,800</u>		<u>120,600</u>
TOTAL	\$389,600	\$226,100		\$615,700
IV. HUMAN RIGHTS COMMISSION:				
FROM:				
General				
Fund	\$137,900			\$137,900
Unemployment Penalty and Interest				
Fund		\$180,200		180,200
Employment Security Special Administration				
Fund	501,600			501,600
Miscellaneous Revenue				
Fund		500		500
Federal Grant				
Fund	<u>0</u>	<u>201,600</u>		<u>201,600</u>
TOTAL	\$639,500	\$382,300		\$1,021,800
V. SERVE IDAHO:				
FROM:				
Miscellaneous Revenue				
Fund		\$46,400		\$46,400
Federal Grant				
Fund	<u>\$273,500</u>	<u>323,700</u>	<u>\$2,050,000</u>	<u>2,647,200</u>
TOTAL	\$273,500	\$370,100	\$2,050,000	\$2,693,600
GRAND TOTAL	\$1,805,900	\$1,867,300	\$2,050,000	\$5,723,200

SECTION 2. There is hereby appropriated out of the funds made available to the Department of Labor of the state of Idaho, pursuant to Section 903 of the federal Social Security Act, as amended, \$413,100 for the payment of expenses incurred for the administration of the Unemployment Insurance and Employment Services Program. This appropriation is authorized and subject to the limitations of Section 72-1346, Idaho Code, for the period July 1, 2012, through June 30, 2013.

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Labor is authorized no more than thirty-one and

one-tenth (31.1) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, 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 AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved March 26, 2012.

CHAPTER 138
(H.B. No. 556)

AN ACT

RELATING TO THE PERSONNEL SYSTEM; AMENDING CHAPTER 53, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5333A, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO SICK LEAVE OF CERTAIN EMPLOYEES OF IDAHO COMMUNITY COLLEGES; AMENDING CHAPTER 53, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5333B, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO SICK LEAVE AND CERTAIN FORMER EMPLOYEES OF SELLAND COLLEGE OF APPLIED TECHNOLOGY AT BOISE STATE UNIVERSITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 53, 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 67-5333A, Idaho Code, and to read as follows:

67-5333A. SICK LEAVE TRANSFERRED -- COMMUNITY COLLEGES -- STATE EMPLOYMENT. Notwithstanding any other provision of law to the contrary, any employee who has accrued sick leave while in the employment of one (1) of Idaho's community colleges and who, on or after January 1, 2012, is transferred to or otherwise becomes an eligible employee of a state of Idaho educational agency immediately following termination of employment with a community college shall be credited by the state of Idaho with the amount of sick leave accrued and unused, up to a maximum of ninety (90) days, upon commence-

ment of state employment. After such transfer, the use of sick leave shall be governed by the laws and rules applicable to state employees and any applicable policies of the state agency or entity thereafter employing such employee.

SECTION 2. That Chapter 53, 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 67-5333B, Idaho Code, and to read as follows:

67-5333B. SICK LEAVE TRANSFERRED -- FORMER EMPLOYEES OF SELLAND COLLEGE OF APPLIED TECHNOLOGY AT BOISE STATE UNIVERSITY -- STATE EMPLOYMENT. Notwithstanding any other provision of law to the contrary, any former employee of Seland college of applied technology at Boise state university (BSU) whose sick leave accumulated at BSU and was transferred to the college of western Idaho (CWI) pursuant to section 33-2109B, Idaho Code, and who, on or before September 1, 2012, was transferred to or otherwise became an eligible employee of the state of Idaho immediately following termination of employment with CWI shall be credited by the state of Idaho with the amount of sick leave transferred to CWI from BSU that remains unused, upon commencement of state employment. After such transfer, the use of sick leave shall be governed by the laws and rules applicable to state employees and by any applicable policies of the state agency or entity thereafter employing such employee.

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

Approved March 27, 2012.

CHAPTER 139
(S.B. No. 1260)

AN ACT

RELATING TO NURSES; AMENDING SECTION 54-1404, IDAHO CODE, TO GRANT THE BOARD OF NURSING THE AUTHORITY TO ESTABLISH ALTERNATIVES TO FORMAL DISCIPLINARY ACTION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1404, Idaho Code, be, and the same is hereby amended to read as follows:

54-1404. BOARD OF NURSING -- POWERS AND DUTIES. The board shall have all powers and duties necessary and incident to regulation of nursing and to enforcement of this chapter, including, but not limited to, the power and duty:

- (1) To regulate individuals designated as certified medication assistants;
- (2) To license qualified persons for practice of nursing in Idaho; to renew licenses; to limit, restrict, amend, deny, suspend or revoke licenses; and to accept the voluntary surrender of a license;
- (3) To establish alternatives to formal disciplinary action including a practice remediation program to educate and remediate nurses as a result of nursing practice deficiencies;

(4) To establish standards, criteria, conditions and requirements for licensure and to investigate and determine eligibility and qualifications for licensure, and to administer examinations for licensure;

(45) To establish standards of conduct and practice and to regulate the use of titles, abbreviations and designations for the practice of nursing;

(56) To establish standards, criteria, and requirements for curricula for nursing education programs and to evaluate, survey, review and approve nursing education programs subject to the provisions of section 54-1406, Idaho Code;

(67) To evaluate continuing competency of persons licensed pursuant to this chapter and to develop standards which will advance the competency of licensees in accordance with developing scientific understanding and methods relating to the practice of nursing;

(78) To receive and collect license and renewal fees assessed pursuant to this chapter and to assess, receive and collect additional reasonable fees for the administration of examinations, investigations and evaluations of applicants, issuance of temporary licenses, duplication and verification of records, surveying and evaluating nursing education programs, and administrative fines not to exceed one hundred dollars (\$100) for each count or separate offense of practicing nursing without current licensure, to be deposited in the state board of nursing account in the manner provided by this chapter;

(89) To employ personnel necessary to administer this chapter and rules promulgated pursuant to this chapter and perform such other duties as the board may require. Such personnel shall include an executive director, who shall be currently licensed to practice professional nursing in Idaho and who shall not be a member of the board;

(910) To maintain a record of board proceedings, annually report to the governor and maintain a public register of names and addresses of licensed nurses;

(101) To enter into interstate compacts, contracts or agreements to facilitate the practice and regulation of nursing in this state;

(112) To make, adopt and publish rules pursuant to chapter 52, title 67, Idaho Code, as may be necessary or appropriate to carry out the provisions and purposes of this chapter.

Approved March 27, 2012.

CHAPTER 140
(S.B. No. 1261)

AN ACT

RELATING TO NURSES; AMENDING SECTION 54-1404, IDAHO CODE, TO PROVIDE THAT THE BOARD OF NURSING SHALL HAVE THE POWER AND DUTY TO EVALUATE AND DEVELOP, OR TO ENTER INTO CONTRACTS OR AGREEMENTS WITH OTHERS TO EVALUATE AND DEVELOP, THE EDUCATION, DISTRIBUTION AND AVAILABILITY OF THE NURSING WORKFORCE FOR THE PURPOSE OF IMPROVING THE DELIVERY OF QUALITY HEALTH CARE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-1404, Idaho Code, be, and the same is hereby amended to read as follows:

54-1404. BOARD OF NURSING -- POWERS AND DUTIES. The board shall have all powers and duties necessary and incident to regulation of nursing and to enforcement of this chapter, including, but not limited to, the power and duty:

(1) To regulate individuals designated as certified medication assistants.

(2) To license qualified persons for practice of nursing in Idaho; to renew licenses; to limit, restrict, amend, deny, suspend or revoke licenses; and to accept the voluntary surrender of a license;

(3) To establish standards, criteria, conditions and requirements for licensure and to investigate and determine eligibility and qualifications for licensure, and to administer examinations for licensure;

(4) To establish standards of conduct and practice and to regulate the use of titles, abbreviations and designations for the practice of nursing;

(5) To establish standards, criteria, and requirements for curricula for nursing education programs and to evaluate, survey, review and approve nursing education programs subject to the provisions of section 54-1406, Idaho Code;

(6) To evaluate continuing competency of persons licensed pursuant to this chapter and to develop standards which will advance the competency of licensees in accordance with developing scientific understanding and methods relating to the practice of nursing;

(7) To receive and collect license and renewal fees assessed pursuant to this chapter and to assess, receive and collect additional reasonable fees for the administration of examinations, investigations and evaluations of applicants, issuance of temporary licenses, duplication and verification of records, surveying and evaluating nursing education programs, and administrative fines not to exceed one hundred dollars (\$100) for each count or separate offense of practicing nursing without current licensure, to be deposited in the state board of nursing account in the manner provided by this chapter;

(8) To employ personnel necessary to administer this chapter and rules promulgated pursuant to this chapter and perform such other duties as the board may require. Such personnel shall include an executive director, who shall be currently licensed to practice professional nursing in Idaho and who shall not be a member of the board;

(9) To maintain a record of board proceedings, annually report to the governor and maintain a public register of names and addresses of licensed nurses;

(10) To enter into interstate compacts, contracts or agreements to facilitate the practice and regulation of nursing in this state;

(11) To evaluate and develop, or to enter into contracts or agreements with others to evaluate and develop, the education, distribution and availability of the nursing workforce for the purpose of improving the delivery of quality health care;

(12) To make, adopt and publish rules pursuant to chapter 52, title 67, Idaho Code, as may be necessary or appropriate to carry out the provisions and purposes of this chapter.

Approved March 27, 2012.

CHAPTER 141
(S.B. No. 1262)

AN ACT

RELATING TO NURSING; AMENDING SECTION 54-1406A, IDAHO CODE, TO REQUIRE THAT ALL APPLICANTS FOR ORIGINAL CERTIFICATION OR CERTIFICATION REINSTATEMENT AS A CERTIFIED MEDICATION ASSISTANT SUBMIT TO A FINGERPRINT-BASED CRIMINAL HISTORY CHECK AND TO PROVIDE REQUIREMENTS RELATING TO SUCH CRIMINAL HISTORY CHECK.

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

SECTION 1. That Section 54-1406A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1406A. CERTIFIED MEDICATION ASSISTANT (MA-C). (1) Effective July 1, 2008, an individual registered as a nursing assistant, without substantiated charges, on the nursing assistant registry currently maintained by the Idaho department of health and welfare, may, with additional education and training as set forth in rule as established by the board, become a certified medication assistant (MA-C) permitted to administer medications as prescribed by an authorized provider within the parameters set forth in rule. A licensed nurse shall supervise the certified medication assistant.

(2) The board shall adopt rules regarding the certification of certified medication assistants, including rules applicable to education, training and other qualifications for certification that will ensure that the certified medication assistant is competent to perform safely within the range of authorized functions.

(3) The board shall maintain a public registry of the names and addresses of all certified medication assistants.

(4) The board is authorized to impose and collect initial application and two (2) year renewal fees, as well as reinstatement fees, not to exceed one hundred dollars (\$100), as determined by board rule. Fees collected pursuant to this section shall be deposited in the state board of nursing account for the administration of examinations, evaluations and investigations of applicants, issuance of certifications, evaluation of education and training programs, duplication and verification of records, and other administrative expenses.

(5) The board shall adopt by rule an application process. and

(a) The application process shall include conducting a state and federal criminal background checks on all applicants seeking certification pursuant to this section.

(b) All applicants for original certification or for certification reinstatement shall submit to a fingerprint-based criminal history check of both the Idaho central criminal database and the federal bureau of investigation criminal history database. All such applicants shall submit a full set of their fingerprints and any relevant fees directly to the Idaho board of nursing for forwarding to the appropriate law enforcement agency for processing. Criminal background reports received by the board from the Idaho state police and the federal bureau of investigation shall be used only for licensing decisions and handled and disposed of in a manner consistent with requirements imposed by the Idaho state police and the federal bureau of investigation.

(c) Upon meeting all requirements and upon the successful completion of additional education, training and competency assessment prescribed by rule, an applicant shall be certified as a certified medication assistant (MA-C).

(6) A person may not use the title "certified medication assistant" or the abbreviation "MA-C" unless such person has been duly certified pursuant to this section.

(7) The board shall adopt rules governing the approval of education and training programs for certified medication assistants.

(8) The board shall set forth in rule criteria for acceptable certified medication assistant competency evaluations.

(9) (a) For any one (1) or a combination of grounds for discipline as set forth in paragraph (b) of this subsection, the board shall have the authority to:

(i) File a letter of concern if the board believes there is insufficient evidence to support direct action against a certified medication assistant;

- (ii) Deny certification or recertification, suspend, revoke, place on probation, reprimand, limit, restrict, condition or accept the voluntary surrender of a certificate issued pursuant to this section if a certified medication assistant commits an act that constitutes grounds for discipline;
 - (iii) Refer criminal violations of this section to the appropriate law enforcement agency;
 - (iv) Impose a civil penalty of not more than one hundred dollars (\$100) per violation; and
 - (v) Recover costs of investigation and disciplinary proceedings, including attorney's fees.
- (b) Grounds for discipline shall include:
- (i) Substance abuse or dependency;
 - (ii) Client abandonment, neglect or abuse;
 - (iii) Fraud or deceit, which may include, but is not limited to:
 - (A) Filing false credentials;
 - (B) Falsely representing facts on an application for initial certification, renewal or reinstatement; and
 - (C) Giving or receiving assistance in taking the competency evaluation;
 - (iv) Boundary violations;
 - (v) Performance of unsafe client care;
 - (vi) Performing acts beyond the range of authorized functions or beyond those tasks delegated under the provisions of this section;
 - (vii) Misappropriation or misuse of property;
 - (viii) Obtaining money or property of a client, resident or other person by theft, fraud, misrepresentation or duress committed during the course of employment as a certified medication assistant;
 - (ix) Criminal conviction of a misdemeanor that directly relates to or affects the functions of a certified medication assistant or conviction of any felony as set forth in rule;
 - (x) Failure to conform to the standards of a certified medication assistant;
 - (xi) Putting clients at risk of harm; and
 - (xii) Violating the privacy or failing to maintain the confidentiality of client or resident information.

(10) The board shall comply with the provisions of the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, in taking any disciplinary action against a certified medication assistant and shall maintain records of any such disciplinary action, which records shall be available for public inspection to the same extent as records regarding disciplinary proceedings against nurses and as otherwise consistent with chapter 3, title 9, Idaho Code.

(11) The board shall notify the Idaho nursing assistant registry of any disciplinary action taken against a certified medication assistant pursuant to this section.

Approved March 27, 2012.

CHAPTER 142
(S.B. No. 1273)

AN ACT

RELATING TO NURSES; AMENDING SECTION 54-1401, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-1402, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 54-1403, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-1408, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-1409, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO REVISE A QUALIFICATION FOR AN ADVANCED PRACTICE REGISTERED NURSING LICENSE; AMENDING SECTION 54-1410, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-1411, IDAHO CODE, TO REVISE PROVISIONS RELATING TO LICENSE RENEWAL AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1417, IDAHO CODE, TO REVISE THE MEMBERSHIP OF AND TERM OF OFFICE FOR THE ADVISORY COMMITTEE TO THE BOARD, TO REVISE THE DUTIES OF THE ADVISORY COMMITTEE TO THE BOARD AND TO MAKE A TECHNICAL CORRECTION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 54-1401, Idaho Code, be, and the same is hereby amended to read as follows:

54-1401. PURPOSE -- LICENSE REQUIRED -- REPRESENTATION TO THE PUBLIC. In order to safeguard the public health, safety and welfare, it is in the public interest to regulate and control nursing in the state of Idaho, to promote quality health care services, to prohibit unqualified and dishonest persons from practicing nursing, and to protect against acts or conduct which may endanger the health and safety of the public.

(1) License required. It shall be unlawful for any person to practice nursing or offer to practice nursing unless that person is duly licensed pursuant to this act.

(2) Representation to the public. Only a person who holds a valid and current license to practice ~~professional~~ registered nursing in this state or a party state pursuant to sections 54-1408 and 54-1418, Idaho Code, may use the title "nurse," "registered nurse," "graduate nurse" or "professional nurse" or the abbreviation "R.N." or any other designations, titles or abbreviations to indicate that the person is practicing nursing in this state. Only a person who holds a valid and current license to practice practical nursing in this state or a party state pursuant to sections 54-1407 and 54-1418, Idaho Code, may use the title "nurse," "licensed practical nurse," or the abbreviation "L.P.N." or any other designations, titles or abbreviations to indicate that the person is practicing nursing in this state.

(3) On and after July 1, 2005, all applicants for original licensure and for license reinstatement will be required to submit to a fingerprint-based criminal history check of the Idaho central criminal database and the federal bureau of investigation criminal history database. Each applicant for original licensure and for license reinstatement must submit a full set of the applicant's fingerprints and any relevant fees directly to the Idaho state police and the federal bureau of investigation identification division for this purpose.

SECTION 2. That Section 54-1402, Idaho Code, be, and the same is hereby amended to read as follows:

54-1402. DEFINITIONS. As used in this act:

(1) "Advanced practice professional registered nurse" means a professional registered nurse licensed in this state who has gained additional specialized knowledge, skills and experience through a nationally accredited program of study as recognized or defined herein and by the board. An advanced practice registered nurse is authorized to perform advanced nursing practice, which may include the prescribing, administering and dispensing of therapeutic pharmacologic agents, as defined by board rules. An advanced practice professional registered nurse shall perform only those acts as provided herein by the board and for which the individual is educationally prepared. Advanced practice professional registered nurses shall include the following four (4) roles: certified nurse-midwives, midwife; clinical nurse specialists; certified nurse practitioners; and certified registered nurse anesthetists as defined in this subsection board rule. An advanced practice registered nurse collaborates with other health professionals in providing health care.

~~(a) "Certified nurse-midwife" means a licensed professional nurse who has graduated from a nationally accredited nurse-midwifery program, passed a qualifying examination recognized by the board, and has current initial certification or current recertification from a national organization recognized by the board. Certified nurse-midwives who meet these qualifying requirements and are licensed by the board, may manage women's health care, which may include pharmacologic and nonpharmacologic therapeutic and corrective measures which focus on pregnancy, childbirth, the postpartum period, care of the newborn, reproductive and gynecological needs of well women as defined by the rules of the board. The certified nurse midwife collaborates with other health professionals in providing health care.~~

~~(b) "Clinical nurse specialist" means a licensed professional nurse who has graduated from a nationally accredited graduate program in nursing with a clinical focus, passed a qualifying examination recognized by the board, and has current initial certification or current recertification from a national group recognized by the board. Clinical nurse specialists who meet these qualifying requirements and are licensed by the board may practice as expert clinicians in a particular specialty or subspecialty of nursing practice. The clinical nurse specialist provides direct client care, which may include assessing, diagnosing, planning, and prescribing pharmacologic and nonpharmacologic therapeutic and corrective measures, health promotion and preventive care within this specialized area of practice, as defined by rules of the board. The clinical nurse specialist collaborates with other health professionals in providing health care.~~

~~(c) "Nurse practitioner" means a licensed professional nurse who has graduated from a nationally accredited nurse practitioner program, passed a qualifying examination recognized by the board, and has current initial certification or current recertification from a national group recognized by the board. Any person authorized by the board to practice nursing as a nurse practitioner in this state as of July 1, 1998, shall be licensed as a nurse practitioner under the provisions of this act and shall be eligible for renewal of such license under the conditions and standards prescribed in this act. Nurse practitioners who meet these qualifying requirements and are licensed by the board may perform comprehensive health assessments, diagnosis, health promotion and the direct management of acute and chronic illness and disease which may include the prescribing of pharmacologic and nonpharmacologic~~

~~treatments as defined by rules of the board. The nurse practitioner collaborates with other health professionals in providing health care.~~

~~(d) "Registered nurse anesthetist" means a licensed professional nurse who has graduated from a nationally accredited nurse anesthesia program, passed a qualifying examination recognized by the board and, has current initial certification or current recertification from a national group recognized by the board. Registered nurse anesthetists who meet these qualifying requirements and are licensed by the board may, in collaboration with a physician, dentist or podiatrist authorized to practice in Idaho, provide anesthesia care services as defined by the rules of the board. The scope of practice for registered nurse anesthetists shall incorporate acts identified in board rules, including selecting, ordering and administering medications appropriate for rendering anesthesia care services.~~

(2) "Board" means the board of nursing.

(3) "Licensed practical nurse" means a person licensed by the board who practices nursing by:

(a) Functioning at the direction of a licensed professional registered nurse, licensed advanced practice registered nurse, licensed physician, or licensed dentist in a role falling within the nurse's scope of practice as defined by the board;

(b) Contributing to the assessment of the health status of individuals and groups of individuals;

(c) Participating in the development and modification of the strategy of care;

(d) Implementing the appropriate aspects of the strategy of care as defined by the board, including administering medications and treatments as prescribed by those health care providers authorized to prescribe medication;

(e) Maintaining safe and effective nursing care rendered directly or indirectly;

(f) Participating in the evaluation of responses to interventions; and

(g) Delegating nursing interventions that may be performed by others and that do not conflict with this act.

(4) "Licensed professional registered nurse" means a person licensed by the board who practices nursing by:

(a) Assessing the health status of individuals and groups of individuals;

(b) Identifying health care problems that are amenable to nursing intervention;

(c) Establishing goals to meet identified health care needs;

(d) Planning a strategy of care;

(e) Prescribing nursing interventions to implement the strategy of care;

(f) Implementing the strategy of care, including administering medications and treatments as prescribed by those health care providers authorized to prescribe medication;

(g) Authorizing nursing interventions that may be performed by others and that do not conflict with this act;

(h) Maintaining safe and effective nursing care rendered directly or indirectly;

(i) Evaluating responses to interventions;

(j) Teaching the theory and practice of nursing;

(k) Managing the practice of nursing; and

(l) Collaborating with other health professionals in the management of health care.

(5) "Nursing education program" means a course of instruction offered and conducted to prepare persons for the practice of nursing, or to increase the knowledge and skills of the practicing nurse.

(6) "Practice of nursing" means assisting individuals or groups of individuals to promote, maintain or restore optimal health throughout the life process by assessing and evaluating their health status, planning and implementing a strategy of care to accomplish defined goals, and evaluating responses to care and treatment.

SECTION 3. That Section 54-1403, Idaho Code, be, and the same is hereby amended to read as follows:

54-1403. BOARD OF NURSING. (1) Appointment, Removal and Term of Office. There is hereby created within the department of self-governing agencies the board of nursing for the state of Idaho composed of nine (9) members appointed by the governor. Membership of the board shall consist of the following:

- (a) Five (5) persons licensed to practice professional registered nursing in Idaho, of whom three (3) shall be educated at the associate degree level provided that one (1) of these may be a diploma nurse, and two (2) of whom shall be educated at the baccalaureate, master's or doctoral level;
- (b) Two (2) persons licensed to practice practical nursing in Idaho;
- (c) One (1) person licensed as an advanced practice registered nurse; and
- (d) One (1) person who is a lay person to health care occupations.

In making appointments to the board, consideration shall be given to the board's responsibility in areas of education and practice. Persons may be reappointed to the board so long as they meet the qualifications of the position to which they were originally appointed. In the event that a member has attained an additional degree of education, they may not be reappointed to represent the board position designated for another specific degree of education. Members of the board shall hold office until expiration of the term to which the member was appointed and until his successor has been duly appointed and qualified. Upon expiration of any term or creation of any vacancy, the board shall notify the governor thereof, who then shall make such appointment or fill such vacancy within sixty (60) days. Appointments shall be for terms of four (4) years except appointments to vacancies which shall be for the unexpired term being filled. No member shall be appointed for more than three (3) consecutive terms. The governor may remove any member from the board for neglect of any duty required by law or for incompetency or unprofessional or dishonorable conduct.

(2) Qualifications of Members. No person is qualified for appointment hereunder unless that person is a citizen of the United States and a resident of the state of Idaho. Members required to be licensed hereunder shall not be qualified for appointment to the board unless actively engaged in some field of nursing in Idaho at the time of appointment. No person is qualified for appointment as the lay member of the board if the person or his spouse is licensed in any health occupation; is an employee, officer or agent of or has any financial interest in any health care facility, institution, or association or any insurance company authorized to underwrite health care insurance; or is engaged in the governance and administration of any health care facility, institution or association.

(3) Conduct of Business. The board shall meet at such times as required to conduct the business of the board and shall annually elect from its members a chairman, vice chairman and such other officers as may be desirable. Five (5) members shall constitute a quorum and the vote of a majority of members present at a meeting wherein a quorum is present shall determine the action of the board. Each member of the board shall be compensated as provided by section 59-509(h), Idaho Code.

SECTION 4. That Section 54-1408, Idaho Code, be, and the same is hereby amended to read as follows:

54-1408. LICENSE FOR PROFESSIONAL REGISTERED NURSING. (1) Qualifications. To qualify for a license to practice professional registered nursing, a person must:

(a) Have successfully completed the basic curriculum of an approved professional registered nursing education program or its equivalent; and

(b) Satisfy one (1) of the following requirements:

(i) Pass an examination adopted and used by the board to measure knowledge and judgment essential for the safe practice of professional registered nursing; or

(ii) Have a professional or registered nurse license in good standing, without restriction or limitation, issued upon successful similar examination, approved by the board, conducted in another state, territory or foreign country; or

(iii) Have a professional or registered nurse license in good standing, without restriction or limitation, issued by another state, territory or foreign country and meet established board requirements; and

(c) Be of sufficiently sound physical and mental health as will not impair or interfere with the ability to practice nursing.

(2) Fees. A qualified applicant shall be entitled to a license to practice professional registered nursing upon payment of a license fee to the board in an amount designated by the board not to exceed two hundred dollars (\$200).

SECTION 5. That Section 54-1409, Idaho Code, be, and the same is hereby amended to read as follows:

54-1409. LICENSE FOR ADVANCED PRACTICE PROFESSIONAL REGISTERED NURSING. (1) Qualifications. To qualify for a license to practice advanced practice professional registered nursing, a person must:

(a) Be currently licensed to practice as a professional registered nurse in Idaho; and

(b) Have successfully completed an approved advanced practice professional registered nursing education program that meets the board requirements for the category role of advanced nursing practice for which the applicant is seeking licensure; and

(c) Have passed a qualifying examination recognized by the board and have current ~~initial~~ certification ~~or current recertification~~ from a national ~~group~~ organization recognized by the board; and

(d) Be of sufficiently sound physical and mental health as will not impair or interfere with the ability to practice nursing.

(2) Fees. A qualified applicant shall be entitled to a license to practice advanced practice professional registered nursing upon payment of a license fee to the board in an amount designated by the board not to exceed two hundred fifty dollars (\$250).

SECTION 6. That Section 54-1410, Idaho Code, be, and the same is hereby amended to read as follows:

54-1410. NURSE EMERITUS LICENSE. (1) Any licensee in good standing, who desires to retire for any length of time from the practice of nursing in this state, shall submit a request in writing, surrender the current license, and pay the required fee; thereafter the current license shall be placed on inactive status and an emeritus status license issued.

(2) An emeritus status license shall be renewed biennially following submission of a renewal application and fee.

(3) Fees are nonrefundable and cannot be prorated.

(4) An emeritus status license does not entitle the holder to practice nursing in the state of Idaho, except that:

(a) A registered nurse with an emeritus status license may use the title "registered nurse," or the abbreviation "RN"; and

(b) A practical nurse with an emeritus status license may use the title "licensed practical nurse," or the abbreviation "LPN"; and

(c) An advanced practice ~~professional~~ registered nurse with an emeritus status license may use an appropriate title or designation as set forth in section 54-1402(1), Idaho Code.

(5) The board may reinstate a license with emeritus status to a license with active status upon payment of the required reinstatement fee, submission of a satisfactory reinstatement application and proof of current competency to practice.

(6) If the emeritus status license is allowed to lapse, the licensee shall not hold himself out by the designation "RN" or "LPN," or by any other title or designation.

(7) When disciplinary proceedings have been initiated against a licensee with emeritus status, the license shall not be reinstated until the proceedings have been completed.

SECTION 7. That Section 54-1411, Idaho Code, be, and the same is hereby amended to read as follows:

54-1411. RENEWAL AND REINSTATEMENT OF LICENSE. (1) Renewal. Each license issued pursuant to this chapter shall be valid from the date of its issue until the first renewal date thereafter.

(a) No license shall be valid unless renewed each and every two (2) years on the renewal dates fixed by the board.

(b) The board may impose a renewal fee in an amount not to exceed one hundred dollars (\$100).

(c) A license that is not timely renewed is a lapsed license.

(2) Certified nurse-midwives, clinical nurse specialists, certified registered nurse anesthetists and certified nurse practitioners desiring license renewal must provide proof, satisfactory to the board, of the applicant's competence to practice by documenting completion of a peer review process.

(3) Reinstatement. A person whose license has lapsed, or who holds an emeritus status license in good standing, or whose license has been revoked, suspended, limited, conditioned or otherwise sanctioned by the board, may apply for reinstatement of the license to active and unrestricted status. A licensee's ability to apply for reinstatement may be subject to time constraints imposed by board rule or by the terms of a disciplinary order. An applicant for reinstatement must:

(a) Pay a reinstatement fee in an amount not to exceed one hundred dollars (\$100).

(b) Submit a completed reinstatement application and provide proof, satisfactory to the board, of the applicant's competency to practice.

(c) Document compliance with the terms and conditions set forth in any order of the board as a condition of reinstatement.

SECTION 8. That Section 54-1417, Idaho Code, be, and the same is hereby amended to read as follows:

54-1417. ADVISORY COMMITTEE TO THE BOARD. There is hereby created and established an advisory committee to the board on issues related to the advanced practice of nursing ~~of certified nurse midwives, clinical nurse specialists and nurse practitioners.~~

(1) The committee shall consist of ~~five (5)~~ at least ten (10) members appointed by the board of nursing: ~~two (2) persons licensed to practice four (4) advanced practice nursing in the state of Idaho appointed by the board of nursing registered nurses, one (1) from each of the statutorily recognized advanced practice roles; two (2) persons licensed to practice medicine in the state of Idaho appointed by the board of nursing from a list of nominees supplied by the board of medicine; and four (4) Idaho licensed physicians; one (1) Idaho licensed pharmacist; and one (1) person licensed to practice pharmacy in the state of Idaho appointed by the board of nursing from a list of nominees supplied by the board of pharmacy. Each member who is a layperson to health care occupations ("public member"). The physician and pharmacist members shall be selected by the board from lists of nominees supplied by the Idaho board of medicine and the Idaho board of pharmacy, respectively. Members shall serve a term of two (2) three (3) years to expire terms ending on June 30 in the last year of the member's term, provided that the board may appoint three (3) of the original committee members, one (1) advanced practice nurse, one (1) physician and one (1) pharmacist to a one (1) time three (3) year term.~~

(2) The committee shall meet quarterly or at such times as may be determined by the committee or the board to be necessary.

(3) The committee shall: (a) respond to questions posed by the board or board staff regarding advanced practice nursing; (b) consider nonroutine applications for advanced practice nursing licenses and make recommendations to the board; (c) review complaints against advanced practice nurses and make recommendations to the board; and (d) ~~consider applications for prescriptive authority and make recommendations to the board; and (e) recommend to the board the scope of practice of advanced practice nurses, using national standards as a guideline.~~

(4) The committee's recommendations, using national standards as a guideline, may be adopted, rejected or modified by the board, provided that the board shall not expand the scope of practice or prescriptive authority of an advanced practice nurse beyond that recommended by the advisory committee.

SECTION 9. Section 8 of this act shall be in full force and effect on and after July 1, 2012; and Sections 1, 2, 3, 4, 5, 6 and 7 of this act shall be in full force and effect on and after July 1, 2013.

Approved March 27, 2012.

CHAPTER 143
(S.B. No. 1289)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-1106, IDAHO CODE, TO REVISE PROVISIONS RELATING TO APPEAL PROCEDURES; AND AMENDING SECTION 43-1118, IDAHO CODE, TO REVISE PROVISIONS RELATING TO APPEAL PROCEDURES.

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

SECTION 1. That Section 43-1106, Idaho Code, be, and the same is hereby amended to read as follows:

43-1106. APPEAL. An appeal shall lie from the decision of the board of directors of such irrigation district denying the petition or any part thereof to the district court of the county where the lands described in the petition are located. The appeal ~~to shall~~ be taken in the same manner and within the same period of time as appeals are taken from decisions or orders of the board of county commissioners accordance with and shall be subject to the appeal provisions of section 43-719(4) and (5), Idaho Code. If an appeal results in an order of the district court excluding the lands described in the petition, or any of them, the time of segregation shall date from the date of the hearing before the board of directors of the district.

SECTION 2. That Section 43-1118, Idaho Code, be, and the same is hereby amended to read as follows:

43-1118. APPEALS -- PROCEDURE. An appeal shall lie from the resolution or the order of the board of directors excluding, and from the order of the board of directors not excluding, lands covered by proceedings under sections 43-1110 through 43-1117, Idaho Code, or from any part of any such order. The appeal may be taken by any landowner in the district and by any person, firm or corporation having any interest in any tract of land included in any such order. The appeal shall be to the district court of the county where the lands involved in the appeal are located. The appeal shall be taken in ~~the same manner and within the same period of time as appeals from the board of county commissioners~~ accordance with and shall be subject to the appeal provisions of section 43-719(4) and (5), Idaho Code.

Approved March 27, 2012.

CHAPTER 144
(S.B. No. 1291)

AN ACT

RELATING TO RANGELANDS; AMENDING CHAPTER 7, TITLE 38, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 38-715, IDAHO CODE, TO PROVIDE FOR THE CREATION OF THE RANGELAND CENTER IN THE UNIVERSITY OF IDAHO, TO PROVIDE FOR THE DIRECTOR OF THE RANGELAND CENTER, TO PROVIDE DUTIES AND TO PROVIDE FOR CONTROL BY THE STATE BOARD OF REGENTS THROUGH THE DEANS OF THE COLLEGES OF NATURAL RESOURCES AND AGRICULTURAL AND LIFE SCIENCES, TO PROVIDE FOR POWERS AND DUTIES OF THE RANGELAND CENTER AND TO PROVIDE FOR A PARTNER ADVISORY COUNCIL; AMENDING CHAPTER 7, TITLE 38, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 38-716, IDAHO CODE, TO PROVIDE FOR THE RANGELAND CENTER ACT; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Chapter 7, Title 38, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 38-715, Idaho Code, and to read as follows:

38-715. RANGELAND CENTER CREATED -- DIRECTOR -- DUTIES -- CONTROL BY STATE BOARD OF REGENTS -- POWERS AND DUTIES OF RANGELAND CENTER -- PARTNER ADVISORY COUNCIL. (1) There is hereby created and established in the university of Idaho, a rangeland center, for the purpose of creating a new model for interdisciplinary research, education and outreach to fulfill the university's land grant mission. The center shall be comprised of researchers and educators from the college of natural resources, the college of agricultural and life sciences, the university of Idaho cooperative extension and other colleges or units in the university of Idaho, and other research agencies, colleges and universities with expertise in, but not limited to, grazing, rangeland ecology, entomology, soil science, economics, rural sociology, fish and wildlife management, invasive plant management, forage production, animal science, restoration and the use of spatial technologies to understand rangelands.

(2) The fiscal and human resources of the rangeland center shall be under the management of a director who shall hold an academic appointment in a department within the university of Idaho, or joint appointment in departments.

(a) The director shall have the following duties:

- (i) To report to the deans of the college of natural resources and the college of agricultural and life sciences and the director of the university of Idaho cooperative extension on rangeland center activities and accomplishments annually and when otherwise requested;
- (ii) To work closely with the partner advisory council to identify and set priorities for the rangeland center;
- (iii) To seek opportunities, secure resources and promote the work of the rangeland center faculty and staff;
- (iv) To provide input for annual evaluation of faculty members who have a portion of their position description dedicated to the rangeland center;
- (v) To supervise staff assigned to the rangeland center; and
- (vi) To oversee budgets secured by and assigned to the rangeland center.

(b) The rangeland center shall be under the control of the state board of regents of the university of Idaho through the deans of the colleges of natural resources and agricultural and life sciences who shall have the power and whose duty it shall be to appoint or designate the director and such faculty and staff as may be necessary, and to fix their compensation.

(3) The rangeland center shall:

- (a) Empower researchers and educators at the university of Idaho who strive to create insight and foster understanding for the stewardship and management of rangelands;
- (b) Work in union with external partners to focus research, education and outreach to produce solutions that are responsive and relevant to contemporary rangeland issues;
- (c) Engage partners and stakeholders to jointly provide leadership for discovery of new knowledge and create science-based solutions for rangeland management;
- (d) Provide objective and relevant rangeland information for individuals, organizations and communities;
- (e) Offer learning opportunities for land stewardship;

(f) Establish a partner advisory council for the purpose of setting strategic goals for the rangeland center, assessing accomplishments relative to the strategic goals, conveying resources and opportunities to accomplish the work of the center and any further purposes as determined; and

(g) Encourage and facilitate applied research to address specific issues and management challenges that arise on Idaho's diverse rangelands.

(4) The partner advisory council shall consist of ten (10) to fifteen (15) members, with a variety of backgrounds, interests and expertise related to rangelands. The initial council shall be appointed by the director of the rangeland center. The council shall establish guidelines for decision making and shall appoint one (1) of its members as chairman who shall thereafter appoint additional members in consultation with the director, not to exceed fifteen (15) members. The council shall meet at a minimum annually and shall conduct annual and five (5) year reviews of the rangeland center and its performance based on strategic goals as established by the council. Such reviews shall be made available to the deans of the college of natural resources and the college of agricultural and life sciences, the director of the university of Idaho cooperative extension, rangeland center faculty members, advisory council members, and their respective stakeholders and constituents.

SECTION 2. That Chapter 7, Title 38, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 38-716, Idaho Code, and to read as follows:

38-716. RANGELAND CENTER ACT. This act shall be known and may be cited as the "Rangeland Center Act."

SECTION 3. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved March 27, 2012.

CHAPTER 145
(S.B. No. 1307)

AN ACT

RELATING TO SECURED TRANSACTIONS; AMENDING SECTION 28-9-102, IDAHO CODE, TO REVISE DEFINITIONS, TO DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-9-105, IDAHO CODE, TO REVISE CONTROL OF ELECTRONIC CHATTEL PAPER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-9-307, IDAHO CODE, TO REVISE THE LOCATION OF CERTAIN REGISTERED ORGANIZATIONS; AMENDING SECTION 28-9-311, IDAHO CODE, TO REVISE AN EXCEPTION TO A FINANCING STATEMENT FILING REQUIREMENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-9-316, IDAHO CODE, TO PROVIDE FOR THE EFFECT ON A FILED FINANCING STATEMENT OF CHANGE IN GOVERNING LAW AND FOR THE EFFECT OF CHANGE IN GOVERNING LAW ON A FINANCING STATEMENT FILED AGAINST THE ORIGINAL DEBTOR AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-9-317, IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE WHEN CERTAIN PERSONS TAKE FREE OF A SECURITY INTEREST IN CERTAIN COLLATERAL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-9-326, IDAHO CODE, TO REVISE WHEN A SECURITY INTEREST CREATED BY A NEW DEBTOR

IS SUBORDINATED AND TO REVISE AN EXCEPTION; AMENDING SECTION 28-9-406, IDAHO CODE, TO REVISE THE APPLICATION OF CERTAIN TERMS RESTRICTING CERTAIN ASSIGNMENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-9-408, IDAHO CODE, TO REVISE THE APPLICATION OF CERTAIN TERMS RESTRICTING CERTAIN ASSIGNMENTS; AMENDING SECTION 28-9-502, IDAHO CODE, TO REVISE WHEN THE RECORD OF A MORTGAGE IS EFFECTIVE AS A FINANCING STATEMENT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 28-9-503, IDAHO CODE, TO REVISE THE SUFFICIENCY OF THE DEBTOR'S NAME ON A FINANCING STATEMENT AND TO DEFINE A TERM; AMENDING SECTION 28-9-507, IDAHO CODE, TO REVISE THE EFFECT WHEN A DEBTOR'S NAME BECOMES INSUFFICIENT SO THAT THE FINANCING STATEMENT BECOMES SERIOUSLY MISLEADING AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-9-515, IDAHO CODE, TO PROVIDE FOR THE EFFECTIVENESS OF A FILED INITIAL FINANCING STATEMENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-9-516, IDAHO CODE, TO REVISE GROUNDS FOR REFUSAL OF THE FILING OFFICE TO ACCEPT A FILING AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-9-516A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DUTIES OF A FILING OFFICER; AMENDING SECTION 28-9-518, IDAHO CODE, TO REVISE TERMINOLOGY AND TO PROVIDE FOR THE FILING AND THE CONTENTS OF AN INFORMATION STATEMENT; REPEALING SECTION 28-9-521, IDAHO CODE, RELATING TO UNIFORM FORM OF WRITTEN FINANCING STATEMENT AND AMENDMENT; AMENDING CHAPTER 9, TITLE 28, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 28-9-521, IDAHO CODE, TO PROVIDE FOR THE UNIFORM FORM OF WRITTEN FINANCING STATEMENT AND AMENDMENT; AMENDING SECTION 28-9-607, IDAHO CODE, TO REVISE THE CONTENTS OF A CERTAIN SECURED PARTY RECORDING AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 9, TITLE 28, IDAHO CODE, BY THE ADDITION OF A NEW PART 8, CHAPTER 9, TITLE 28, IDAHO CODE, TO PROVIDE A SAVINGS CLAUSE, TO PROVIDE FOR SECURITY INTEREST PERFECTED BEFORE THE ACT'S EFFECTIVE DATE, TO PROVIDE FOR SECURITY INTEREST UNPERFECTED BEFORE THE ACT'S EFFECTIVE DATE, TO PROVIDE FOR THE EFFECTIVENESS OF ACTION TAKEN BEFORE THE ACT'S EFFECTIVE DATE, TO PROVIDE FOR WHEN THE INITIAL FINANCING STATEMENT SUFFICES TO CONTINUE EFFECTIVENESS OF THE FINANCING STATEMENT, TO PROVIDE FOR AMENDMENT OF PRE-EFFECTIVE-DATE FINANCING STATEMENT, TO PROVIDE FOR PERSONS ENTITLED TO FILE AN INITIAL FINANCING STATEMENT OR CONTINUATION STATEMENT AND TO PROVIDE FOR PRIORITY; AMENDING SECTION 28-12-103, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 28-9-102, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-102. DEFINITIONS AND INDEX OF DEFINITIONS. (a) In this chapter:

- (1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.
- (2) "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance: (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of; (ii) for services rendered or to be rendered; (iii) for a policy of insurance issued or to be issued; (iv) for a secondary obligation incurred or to be incurred; (v) for energy provided or to be provided; (vi) for the use or hire of a vessel under a charter or other contract; (vii) arising out of the use of a credit or charge card or information contained on or for use with the card; or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or a person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health care insurance receivables. The term does not include:

(i) rights to payment evidenced by chattel paper or an instrument; (ii) commercial tort claims; (iii) deposit accounts; (iv) investment property; (v) letter of credit rights or letters of credit; or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(4) "Accounting," except as used in "accounting for," means a record:

(A) authenticated by a secured party;

(B) indicating the aggregate unpaid secured obligations as of a date not more than thirty-five (35) days earlier or thirty-five (35) days later than the date of the record; and

(C) identifying the components of the obligations in reasonable detail.

(5) "Agricultural lien" means an interest, other than a security interest, in farm products:

(A) which secures payment or performance of an obligation for:

(i) goods or services furnished in connection with a debtor's farming operation; or

(ii) rent on real property leased by a debtor in connection with its farming operation;

(B) which is created by statute in favor of a person that:

(i) in the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or

(ii) leased real property to a debtor in connection with the debtor's farming operation; and

(C) whose effectiveness does not depend on the person's possession of the personal property.

(6) "As-extracted collateral" means:

(A) oil, gas, or other minerals that are subject to a security interest that:

(i) is created by a debtor having an interest in the minerals before extraction; and

(ii) attaches to the minerals as extracted; or

(B) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) "Authenticate" means:

(A) to sign; or

~~(B) to execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record with the intent to adopt or accept a record,~~
to attach to or logically associate with the record an electronic sound, symbol or process.

(8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions and trust companies.

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record maintained as

an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(11) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include: (i) charters or other contracts involving the use or hire of a vessel; or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(12) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

- (A) proceeds to which a security interest attaches;
- (B) accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and
- (C) goods that are the subject of a consignment.

(13) "Commercial tort claim" means a claim arising in tort with respect to which:

- (A) the claimant is an organization; or
- (B) the claimant is an individual and the claim:
 - (i) arose in the course of the claimant's business or profession; and
 - (ii) does not include damages arising out of personal injury to or the death of an individual.

(14) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(15) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

- (A) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or
- (B) traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(16) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

(17) "Commodity intermediary" means a person that:

- (A) is registered as a futures commission merchant under federal commodities law; or
- (B) in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(18) "Communicate" means:

- (A) to send a written or other tangible record;
- (B) to transmit a record by any means agreed upon by the persons sending and receiving the record; or

- (C) in the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing office rule.
- (19) "Consignee" means a merchant to which goods are delivered in a consignment.
- (20) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:
- (A) the merchant:
 - (i) deals in goods of that kind under a name other than the name of the person making delivery;
 - (ii) is not an auctioneer; and
 - (iii) is not generally known by its creditors to be substantially engaged in selling the goods of others;
 - (B) with respect to each delivery, the aggregate value of the goods is one thousand dollars (\$1,000) or more at the time of delivery;
 - (C) the goods are not consumer goods immediately before delivery; and
 - (D) the transaction does not create a security interest that secures an obligation.
- (21) "Consignor" means a person that delivers goods to a consignee in a consignment.
- (22) "Consumer debtor" means a debtor in a consumer transaction.
- (23) "Consumer goods" means goods that are used or bought for use primarily for personal, family or household purposes.
- (24) "Consumer goods transaction" means a consumer transaction in which:
- (A) an individual incurs an obligation primarily for personal, family or household purposes; and
 - (B) a security interest in consumer goods secures the obligation.
- (25) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family or household purposes.
- (26) "Consumer transaction" means a transaction in which: (i) an individual incurs an obligation primarily for personal, family or household purposes; (ii) a security interest secures the obligation; and (iii) the collateral is held or acquired primarily for personal, family or household purposes. The term includes consumer goods transactions.
- (27) "Continuation statement" means an amendment of a financing statement which:
- (A) identifies, by its file number, the initial financing statement to which it relates; and
 - (B) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.
- (28) "Debtor" means:
- (A) a person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;
 - (B) a seller of accounts, chattel paper, payment intangibles or promissory notes; or
 - (C) a consignee.
- (29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.
- (30) "Document" means a document of title or a receipt of the type described in section 28-7-201 (b), Idaho Code.

(31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(33) "Equipment" means goods other than inventory, farm products or consumer goods.

(34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

(A) crops grown, growing, or to be grown, including:

(i) crops produced on trees, vines and bushes; and

(ii) aquatic goods produced in aquacultural operations;

(B) livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(C) supplies used or produced in a farming operation; or

(D) products of crops or livestock in their unmanufactured states.

(35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(36) "File number" means the number assigned to an initial financing statement pursuant to section 28-9-519(a), Idaho Code.

(37) "Filing office" means an office designated in section 28-9-501, Idaho Code, as the place to file a financing statement.

(38) "Filing office rule" means a rule adopted pursuant to section 28-9-526, Idaho Code.

(39) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(40) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying section 28-9-502(a) and (b), Idaho Code. The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(41) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

(42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter of credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

(43) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(44) "Goods" means all things that are movable when a security interest attaches. The term includes: (i) fixtures; (ii) standing timber that is to be cut and removed under a conveyance or contract for sale; (iii) the unborn young of animals; (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines or bushes; and (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if: (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods; or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also

does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter of credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

(45) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(46) "Health care insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health care goods or services provided or to be provided.

(47) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in the ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include: (i) investment property; (ii) letters of credit; or (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(48) "Inventory" means goods, other than farm products, which:

(A) are leased by a person as lessor;

(B) are held by a person for sale or lease or to be furnished under a contract of service;

(C) are furnished by a person under a contract of service; or

(D) consist of raw materials, work in process, or materials used or consumed in a business.

(49) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract or commodity account.

(50) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction under whose law the organization is formed or organized.

(51) "Letter of credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(52) "Lien creditor" means:

(A) a creditor that has acquired a lien on the property involved by attachment, levy, or the like;

(B) an assignee for benefit of creditors from the time of assignment;

(C) a trustee in bankruptcy from the date of the filing of the petition; or

(D) a receiver in equity from the time of appointment.

(53) "Manufactured home" means a structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States secretary of housing and

urban development and complies with the standards established under title 42 of the United States Code.

(54) "Manufactured home transaction" means a secured transaction:

- (A) that creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or
- (B) in which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(55) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.

(56) "New debtor" means a person that becomes bound as debtor under section 28-9-203(d), Idaho Code, by a security agreement previously entered into by another person.

(57) "New value" means: (i) money; (ii) money's worth in property, services or new credit; or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(58) "Noncash proceeds" means proceeds other than cash proceeds.

(59) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral: (i) owes payment or other performance of the obligation; (ii) has provided property other than the collateral to secure payment or other performance of the obligation; or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(60) "Original debtor," except as used in section 28-9-310(c), Idaho Code, means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under section 28-9-203(d), Idaho Code.

(61) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(62) "Person related to," with respect to an individual, means:

- (A) the spouse of the individual;
- (B) a brother, brother-in-law, sister, or sister-in-law of the individual;
- (C) an ancestor or lineal descendant of the individual or the individual's spouse; or
- (D) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(63) "Person related to," with respect to an organization, means:

- (A) a person directly or indirectly controlling, controlled by, or under common control with the organization;
- (B) an officer or director of, or a person performing similar functions with respect to, the organization;
- (C) an officer or director of, or a person performing similar functions with respect to, a person described in subparagraph (A) of this paragraph;
- (D) the spouse of an individual described in subparagraph (A), (B) or (C) of this paragraph; or
- (E) an individual who is related by blood or marriage to an individual described in subparagraph (A), (B), (C) or (D) of this paragraph and shares the same home with the individual.

(64) "Proceeds" means the following property:

- (A) whatever is acquired upon the sale, lease, license, exchange or other disposition of collateral;
- (B) whatever is collected on, or distributed on account of, collateral;
- (C) rights arising out of collateral;

(D) to the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

(E) to the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(65) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(66) "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to sections 28-9-620, 28-9-621 and 28-9-622, Idaho Code.

(67) "Public-finance transaction" means a secured transaction in connection with which:

(A) debt securities are issued;

(B) all or a portion of the securities issued have an initial stated maturity of at least twenty (20) years; and

(C) the debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(68) "Public organic record" means a record that is available to the public for inspection and that is:

(A) a record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by the state or the United States which amends or restates the initial record;

(B) an organic record of a business trust consisting of the record initially filed with a state and any record filed with the state which amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or

(C) a record consisting of legislation enacted by the legislature of a state or the congress of the United States which forms or organizes an organization, any record amending the legislation, and any record filed with or issued by the state or United States which amends or restates the name of the organization.

(69) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(6970) "Record," except as used in "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

(701) "Registered organization" means an organization formed or organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized by the filing of a public organic record with, the issuance of a public organic record by, or the enactment of legislation by the state or United States. The term includes a business trust that is formed or organized under the law of a single state if a statute of the state governing business trusts requires that the business trust's organic record be filed with the state.

- (712) "Secondary obligor" means an obligor to the extent that:
- (A) the obligor's obligation is secondary; or
 - (B) the obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.
- (723) "Secured party" means:
- (A) a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;
 - (B) a person that holds an agricultural lien;
 - (C) a consignor;
 - (D) a person to which accounts, chattel paper, payment intangibles or promissory notes have been sold;
 - (E) a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or
 - (F) a person that holds a security interest arising under section 28-2-401, 28-2-505, 28-2-711(3), 28-4-210, 28-5-120 or 28-12-508(5), Idaho Code.
- (734) "Security agreement" means an agreement that creates or provides for a security interest.
- (745) "Send," in connection with a record or notification, means:
- (A) to deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or
 - (B) to cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph (A) of this paragraph.
- (756) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.
- (767) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- (778) "Supporting obligation" means a letter of credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument or investment property.
- (789) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.
- (7980) "Termination statement" means an amendment of a financing statement which:
- (A) identifies, by its file number, the initial financing statement to which it relates; and
 - (B) indicates either that it is a termination statement or that the identified financing statement is no longer effective.
- (801) "Transmitting utility" means a person primarily engaged in the business of:
- (A) operating a railroad, subway, street railway, or trolley bus;
 - (B) transmitting communications electrically, electromagnetically or by light;
 - (C) transmitting goods by pipeline or sewer; or
 - (D) transmitting or producing and transmitting electricity, steam, gas or water.
- (b) "Control" as provided in section 28-7-106, Idaho Code, and the following definitions in other chapters apply to this chapter:

"Applicant"	section 28-5-102, <u>Idaho Code.</u>
"Beneficiary"	section 28-5-102, <u>Idaho Code.</u>
"Broker"	section 28-8-102, <u>Idaho Code.</u>
"Certificated security"	section 28-8-102, <u>Idaho Code.</u>
"Check"	section 28-3-104, <u>Idaho Code.</u>
"Clearing corporation"	section 28-8-102, <u>Idaho Code.</u>
"Contract for sale"	section 28-2-106, <u>Idaho Code.</u>
"Customer"	section 28-4-104, <u>Idaho Code.</u>
"Entitlement holder"	section 28-8-102, <u>Idaho Code.</u>
"Financial asset"	section 28-8-102, <u>Idaho Code.</u>
"Holder in due course"	section 28-3-302, <u>Idaho Code.</u>
"Issuer" (with respect to a letter of credit or letter of credit right)	section 28-5-102, <u>Idaho Code.</u>
"Issuer" (with respect to a security)	section 28-8-201, <u>Idaho Code.</u>
"Issuer" (with respect to documents of title)	section 28-7-102, <u>Idaho Code.</u>
"Lease"	section 28-12-103, <u>Idaho Code.</u>
"Lease agreement"	section 28-12-103, <u>Idaho Code.</u>
"Lease contract"	section 28-12-103, <u>Idaho Code.</u>
"Leasehold interest"	section 28-12-103, <u>Idaho Code.</u>
"Lessee"	section 28-12-103, <u>Idaho Code.</u>
"Lessee in ordinary course of business"	section 28-12-103, <u>Idaho Code.</u>
"Lessor"	section 28-12-103, <u>Idaho Code.</u>
"Lessor's residual interest"	section 28-12-103, <u>Idaho Code.</u>
"Letter of credit"	section 28-5-102, <u>Idaho Code.</u>
"Merchant"	section 28-2-104, <u>Idaho Code.</u>
"Negotiable instrument"	section 28-3-104, <u>Idaho Code.</u>
"Nominated person"	section 28-5-102, <u>Idaho Code.</u>
"Note"	section 28-3-104, <u>Idaho Code.</u>
"Proceeds of a letter of credit"	section 28-5-114, <u>Idaho Code.</u>
"Prove"	section 28-3-103, <u>Idaho Code.</u>
"Sale"	section 28-2-106, <u>Idaho Code.</u>
"Securities account"	section 28-8-501, <u>Idaho Code.</u>
"Securities intermediary"	section 28-8-102, <u>Idaho Code.</u>
"Security"	section 28-8-102, <u>Idaho Code.</u>
"Security certificate"	section 28-8-102, <u>Idaho Code.</u>
"Security entitlement"	section 28-8-102, <u>Idaho Code.</u>
"Uncertificated security"	section 28-8-102, <u>Idaho Code.</u>

(c) Chapter 1, title 28, contains general definitions and principles of construction and interpretation applicable throughout this chapter.

SECTION 2. That Section 28-9-105, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-105. CONTROL OF ELECTRONIC CHATTEL PAPER. (a) A secured party has control of electronic chattel paper if a system employed for evidencing the transfer of interests in the chattel paper reliably establishes the secured party as the person to which the chattel paper was assigned.

(b) A system satisfies subsection (a) of this section, and a secured party has control of electronic chattel paper, if the record or records comprising the chattel paper are created, stored and assigned in such a manner that:

- (1) A single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in subsections paragraphs (4), (5) and (6) of this subsection, unalterable;
- (2) The authoritative copy identifies the secured party as the assignee of the record or records;
- (3) The authoritative copy is communicated to and maintained by the secured party or its designated custodian;

- (4) Copies or ~~revisions~~ amendments that add or change an identified assignee of the authoritative copy can be made only with the participation consent of the secured party;
- (5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and
- (6) Any ~~revision~~ amendment of the authoritative copy is readily identifiable as an authorized or unauthorized revision.

SECTION 3. That Section 28-9-307, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-307. LOCATION OF DEBTOR. (a) In this section, "place of business" means a place where a debtor conducts its affairs.

(b) Except as otherwise provided in this section, the following rules determine a debtor's location:

(1) A debtor who is an individual is located at the individual's principal residence.

(2) A debtor that is an organization and has only one (1) place of business is located at its place of business.

(3) A debtor that is an organization and has more than one (1) place of business is located at its chief executive office.

(c) Subsection (b) of this section applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection (b) of this section does not apply, the debtor is located in the District of Columbia.

(d) A person that ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections (b) and (c) of this section.

(e) A registered organization that is organized under the law of a state is located in that state.

(f) Except as otherwise provided in subsection (i) of this section, a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(1) In the state that the law of the United States designates, if the law designates a state of location;

(2) In the state that the registered organization, branch or agency designates, if the law of the United States authorizes the registered organization, branch or agency to designate its state of location, including by designating its main office, home office or other comparable office; or

(3) In the District of Columbia, if neither paragraph (1) nor paragraph (2) of this subsection applies.

(g) A registered organization continues to be located in the jurisdiction specified by subsection (e) or (f) of this section notwithstanding:

(1) The suspension, revocation, forfeiture or lapse of the registered organization's status as such in its jurisdiction of organization; or

(2) The dissolution, winding up, or cancellation of the existence of the registered organization.

(h) The United States is located in the District of Columbia.

(i) A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only one (1) state.

(j) A foreign air carrier under the federal aviation act of 1958, as amended, is located at the designated office of the agent upon which service of process may be made on behalf of the carrier.

(k) This section applies only for purposes of this part.

SECTION 4. That Section 28-9-311, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-311. ~~PERFECTION OF SECURITY INTERESTS IN PROPERTY SUBJECT TO CERTAIN STATUTES, REGULATIONS AND TREATIES.~~ (a) Except as otherwise provided in subsection (d) of this section, the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) A statute, regulation or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt section 28-9-310(a), Idaho Code;

(2) Section 49-510, Idaho Code; or

(3) A ~~certificate of title~~ statute of another jurisdiction which provides for a security interest to be indicated on the a certificate of title as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(b) Compliance with the requirements of a statute, regulation or treaty described in subsection (a) of this section for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this chapter. Except as otherwise provided in subsection (d) of this section and sections 28-9-313 and 28-9-316(d) and (e), Idaho Code, for goods covered by a certificate of title, a security interest in property subject to a statute, regulation or treaty described in subsection (a) of this section may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) Except as otherwise provided in subsection (d) of this section and section 28-9-316(d) and (e), Idaho Code, duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation or treaty described in subsection (a) of this section are governed by the statute, regulation or treaty. In other respects, the security interest is subject to this chapter.

(d) During any period in which collateral subject to a statute specified in subsection (a) (2) of this section is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling or leasing goods of that kind, this section does not apply to a security interest in that collateral created by that person as debtor.

SECTION 5. That Section 28-9-316, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-316. ~~CONTINUED PERFECTION OF SECURITY INTEREST FOLLOWING EFFECT OF CHANGE IN GOVERNING LAW.~~ (a) A security interest perfected pursuant to the law of the jurisdiction designated in section 28-9-301(1) or 28-9-305(c), Idaho Code, remains perfected until the earliest of:

(1) The time perfection would have ceased under the law of that jurisdiction;

(2) The expiration of four (4) months after a change of the debtor's location to another jurisdiction; or

(3) The expiration of one (1) year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

(b) If a security interest described in subsection (a) of this section becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(c) A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

- (1) The collateral is located in one (1) jurisdiction and subject to a security interest perfected under the law of that jurisdiction;
- (2) Thereafter the collateral is brought into another jurisdiction; and
- (3) Upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(d) Except as otherwise provided in subsection (e) of this section, a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(e) A security interest described in subsection (d) of this section becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under section 28-9-311(b) or 28-9-313, Idaho Code, are not satisfied before the earlier of:

- (1) The time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this state; or
- (2) The expiration of four (4) months after the goods had become so covered.

(f) A security interest in deposit accounts, letter of credit rights, or investment property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

- (1) The time the security interest would have become unperfected under the law of that jurisdiction; or
- (2) The expiration of four (4) months after a change of the applicable jurisdiction to another jurisdiction.

(g) If a security interest described in subsection (f) of this section becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(h) The following rules apply to collateral to which a security interest attaches within four (4) months after the debtor changes its location to another jurisdiction:

- (1) A financing statement filed before the change pursuant to the law of the jurisdiction designated in section 28-9-301(1) or 28-9-305(c), Idaho Code, is effective to perfect a security interest in the collateral if the financing statement would have been effective to perfect a security interest in the collateral if the debtor had not changed its location.
- (2) If a security interest that is perfected by a financing statement that is effective under paragraph (1) of this subsection becomes

perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in section 28-9-301(1) or 28-9-305(c), Idaho Code, or the expiration of the four (4) month period, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(i) If a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction designated in section 28-9-301(1) or 28-9-305(c), Idaho Code, and the new debtor is located in another jurisdiction, the following rules apply:

(1) The financing statement is effective to perfect a security interest in collateral in which the new debtor has or acquires rights before or within four (4) months after the new debtor becomes bound under section 28-9-203(d), Idaho Code, if the financing statement would have been effective to perfect a security interest in the collateral if the collateral had been acquired by the original debtor.

(2) A security interest that is perfected by the financing statement and that becomes perfected under the law of the other jurisdiction before the earlier of the expiration of the four (4) month period or the time the financing statement would have become ineffective under the law of the jurisdiction designated in section 28-9-301(1) or 28-9-305(c), Idaho Code, remains perfected thereafter. A security interest that is perfected by the financing statement but that does not become perfected under the law of the other jurisdiction before the earlier time or event becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

SECTION 6. That Section 28-9-317, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-317. INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE OF SECURITY INTEREST OR AGRICULTURAL LIEN. (a) A security interest or agricultural lien is subordinate to the rights of:

(1) A person entitled to priority under section 28-9-322, Idaho Code; and

(2) Except as otherwise provided in subsection (e) of this section, a person that becomes a lien creditor before the earlier of the time:

(A) the security interest or agricultural lien is perfected; or

(B) one (1) of the conditions specified in section 28-9-203(b) (3), Idaho Code, is met and a financing statement covering the collateral is filed.

(b) Except as otherwise provided in subsection (e) of this section, a buyer, other than a secured party, of tangible chattel paper, tangible documents, goods, instruments or a certificated security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) Except as otherwise provided in subsection (e) of this section, a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) A licensee of a general intangible or a buyer, other than a secured party, of ~~accounts, electronic chattel paper, electronic documents, general intangibles, or investment property collateral~~ other than tangible chattel paper, tangible documents, goods, instruments or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) Except as otherwise provided in sections 28-9-320 and 28-9-321, Idaho Code, if a person files a financing statement with respect to a purchase-money security interest before or within twenty (20) days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

SECTION 7. That Section 28-9-326, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-326. PRIORITY OF SECURITY INTERESTS CREATED BY NEW DEBTOR. (a) Subject to subsection (b) of this section, a security interest that is created by a new debtor which is in collateral in which the new debtor has or acquires rights and perfected by a filed financing statement that is effective solely under section 28-9-508 in collateral in which a new debtor has or acquires rights would be ineffective to perfect the security interest but for the application of sections 28-9-316(i) (1) and 28-9-508, Idaho Code, is subordinate to a security interest in the same collateral which is perfected other than by such a filed financing statement that is effective solely under section 28-9-508.

(b) The other provisions of this part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements that are effective solely under section 28-9-508 described in subsection (a) of this section. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

SECTION 8. That Section 28-9-406, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-406. DISCHARGE OF ACCOUNT DEBTOR -- NOTIFICATION OF ASSIGNMENT -- IDENTIFICATION AND PROOF OF ASSIGNMENT -- RESTRICTIONS ON ASSIGNMENT OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES AND PROMISSORY NOTES INEFFECTIVE. (a) Subject to subsections (b) through (i) of this section, an account debtor on an account, chattel paper or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(b) Subject to subsection (h) of this section, notification is ineffective under subsection (a) of this section:

(1) If it does not reasonably identify the rights assigned;

(2) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this chapter; or

(3) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

(A) only a portion of the account, chattel paper or payment intangible has been assigned to that assignee;

(B) a portion has been assigned to another assignee; or

(C) the account debtor knows that the assignment to that assignee is limited.

(c) Subject to subsection (h) of this section, if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the

assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (a) of this section.

(d) Except as otherwise provided in subsection (e) of this section and sections 28-9-407 and 28-12-303, Idaho Code, and subject to subsection (h) of this section, a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(1) Prohibits, restricts or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection or enforcement of a security interest in, the account, chattel paper, payment intangible or promissory note; or

(2) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible or promissory note.

(e) Subsection (d) of this section does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under section 28-9-610, Idaho Code, or an acceptance of collateral under section 28-9-620, Idaho Code.

(f) Except as otherwise provided in sections 28-9-407 and 28-12-303, Idaho Code, and subject to subsections (h) and (i) of this section, a rule of law, statute, rule or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, rule or regulation:

(1) Prohibits, restricts or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in the account or chattel paper; or

(2) Provides that the assignment or transfer or the creation, attachment, perfection or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination or remedy under the account or chattel paper.

(g) Subject to subsection (h) of this section, an account debtor may not waive or vary its option under subsection (b) (3) of this section.

(h) This section is subject to law other than this chapter which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family or household purposes.

(i) This section does not apply to an assignment of a health care insurance receivable, an award of compensation made pursuant to the crime victims compensation act, chapter 10, title 72, Idaho Code, or a lottery prize subject to the provisions of chapter 74, title 67, Idaho Code.

SECTION 9. That Section 28-9-408, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-408. RESTRICTIONS ON ASSIGNMENT OF PROMISSORY NOTES, HEALTH CARE INSURANCE RECEIVABLES, AND CERTAIN GENERAL INTANGIBLES INEFFECTIVE. (a) Except as otherwise provided in subsection (b) of this section, a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health care insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the

promissory note, health care insurance receivable, or general intangible, is ineffective to the extent that the term:

(1) Would impair the creation, attachment or perfection of a security interest; or

(2) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health care insurance receivable, or general intangible.

(b) Subsection (a) of this section applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a disposition under section 28-9-610, Idaho Code, or an acceptance of collateral under section 28-9-620, Idaho Code.

(c) A rule of law, statute, rule or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health care insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute or regulation:

(1) Would impair the creation, attachment or perfection of a security interest; or

(2) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health care insurance receivable, or general intangible.

(d) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health care insurance receivable or general intangible or a rule of law, statute or regulation described in subsection (c) of this section would be effective under law other than this chapter but is ineffective under subsection (a) or (c) of this section, the creation, attachment, or perfection of a security interest in the promissory note, health care insurance receivable, or general intangible:

(1) Is not enforceable against the person obligated on the promissory note or the account debtor;

(2) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(3) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

(4) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health care insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health care insurance receivable, or general intangible;

(5) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(6) Does not entitle the secured party to enforce the security interest in the promissory note, health care insurance receivable, or general intangible.

SECTION 10. That Section 28-9-502, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-502. CONTENTS OF FINANCING STATEMENT -- RECORD OF MORTGAGE AS FINANCING STATEMENT -- TIME OF FILING FINANCING STATEMENT -- FARM PRODUCTS. (a) Subject to subsection (b) of this section, a financing statement is sufficient only if it:

- (1) Provides the name of the debtor;
- (2) Provides the name of the secured party or a representative of the secured party; and
- (3) Indicates the collateral covered by the financing statement.

(b) Except as otherwise provided in section 28-9-501(b), Idaho Code, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (a) of this section and also:

- (1) Indicate that it covers this type of collateral;
- (2) Indicate that it is to be filed in the real property records;
- (3) Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and
- (4) If the debtor does not have an interest of record in the real property, provide the name of a record owner.

(c) A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

- (1) The record indicates the goods or accounts that it covers;
- (2) The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
- (3) The record satisfies the requirements for a financing statement in this section ~~other than an indication~~, but:

(A) the record need not indicate that it is to be filed in the real property records; and

(B) the record sufficiently provides the name of a debtor who is an individual if it provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom section 28-9-503(a) (4), Idaho Code, applies; and

- (4) The record is recorded.

(d) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

(e) A financing statement covering farm products is sufficient if it:

- (1) Contains the names and addresses of both the debtor and the secured party;
- (2) Is signed, authorized or otherwise authenticated by the debtor;
- (3) Contains the debtor's social security number or other unique number, combination of numbers and letters, or other identifier selected by the secretary of state using a selection system or method approved by the secretary of agriculture, or in the case of a debtor doing business other than as an individual, the debtor's internal revenue service taxpayer identification number or other approved unique identifier;
- (4) Contains a description by category of the farm products subject to the security interest and the amount of such products, where applicable;
- (5) Indicates the county or counties in which the farm products are produced or located.

(f) A financing statement covering farm products must be amended in writing and similarly signed, authorized or authenticated, and filed, to reflect any material changes. In the event such form is not incorporated within the financing statement, the effectiveness and continuation of that form is to be treated as if it were a part of the financing statement with which it is filed.

(g) If the financing statement covering farm products, or an amendment to such statement, is filed electronically, neither the debtor's nor the secured party's signature shall be required.

(h) In order to terminate a financing statement covering farm products, the amendment must be terminated in writing and signed or authenticated by the secured party.

SECTION 11. That Section 28-9-503, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-503. NAME OF DEBTOR AND SECURED PARTY. (a) A financing statement sufficiently provides the name of the debtor:

(1) Except as otherwise provided in paragraph (3) of this subsection, if the debtor is a registered organization or the collateral is held in a trust that is a registered organization, only if the financing statement provides the name of the debtor indicated that is stated to be the registered organization's name on the public organic record of the debtor's most recently filed with or issued or enacted by the registered organization's jurisdiction of organization which shows the debtor to have been organized purports to state, amend or restate the registered organization's name;

(2) Subject to subsection (f) of this section, if the debtor is a decedent's estate collateral is being administered by the personal representative of a decedent, only if the financing statement provides, as the name of the debtor, the name of the decedent and, in a separate part of the financing statement, indicates that the debtor is an estate collateral is being administered by a personal representative;

(3) If the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:

(A) provides the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having one (1) or more of the same settlors; and

(B) indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; and

collateral is held in a trust that is not a registered organization, only if the financing statement:

(A) provides, as the name of the debtor:

(i) if the organic record of the trust specifies a name for the trust, the name so specified; or

(ii) if the organic record of the trust does not specify a name for the trust, the name of the settlor or testator; and

(B) in a separate part of the financing statement:

(i) if the name is provided in accordance with subparagraph (A) (i) of this paragraph, indicates that the collateral is held in a trust; or

(ii) if the name is provided in accordance with subparagraph (A) (ii) of this paragraph, provides additional information sufficient to distinguish the trust from other trusts having one (1) or more of the same settlors or the same testator and indicates that the collateral is held in a trust, unless the additional information so indicates;

(4) Subject to subsection (g) of this section, if the debtor is an individual to whom this state has issued a driver's license or an Idaho identification card that has not expired, only if it provides the name of the individual which is indicated on the driver's license or the Idaho identification card;

(5) If the debtor is an individual to whom paragraph (4) of this subsection does not apply, only if it provides the individual name of the debtor or the surname and first personal name of the debtor; and

(46) In other cases:

(A) if the debtor has a name, only if it provides the ~~individual or~~ organizational name of the debtor; and

(B) if the debtor does not have a name, only if it provides the names of the partners, members, associates or other persons comprising the debtor, in a manner that each name provided would be sufficient if the person named were the debtor.

(b) A financing statement that provides the name of the debtor in accordance with subsection (a) of this section is not rendered ineffective by the absence of:

(1) A trade name or other name of the debtor; or

(2) Unless required under subsection (a) (46) (B) of this section, names of partners, members, associates or other persons comprising the debtor.

(c) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(d) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(e) A financing statement may provide the name of more than one (1) debtor and the name of more than one (1) secured party.

(f) The name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the collateral is sufficient as the "name of the decedent" under subsection (a) (2) of this section.

(g) If this state has issued to an individual more than one (1) driver's license or Idaho identification card of a kind described in subsection (a) (4) of this section, the one that was issued most recently is the one to which subsection (a) (4) of this section refers.

(h) The "name of the settlor or testator" means:

(1) If the settlor is a registered organization, the name of the registered organization indicated on the public organic record filed with or issued or enacted by the registered organization's jurisdiction of organization; or

(2) In other cases, the name of the settlor or testator indicated in the trust's organic record.

SECTION 12. That Section 28-9-507, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-507. EFFECT OF CERTAIN EVENTS ON EFFECTIVENESS OF FINANCING STATEMENT. (a) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(b) Except as otherwise provided in subsection (c) of this section and section 28-9-508, Idaho Code, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under section 28-9-506, Idaho Code.

(c) ~~If a debtor so changes its~~ the name that a filed financing statement provides for a debtor becomes insufficient as the name of the debtor under section 28-9-503(a), Idaho Code, so that the financing statement becomes seriously misleading under section 28-9-506, Idaho Code:

(1) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four (4) months after, the change filed financing statement becomes seriously misleading; and

(2) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four (4) months after the change filed financing statement becomes seriously misleading, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four (4) months after the change that event.

SECTION 13. That Section 28-9-515, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-515. DURATION AND EFFECTIVENESS OF FINANCING STATEMENT -- EFFECT OF LAPSED FINANCING STATEMENT. (a) Except as otherwise provided in section 28-9-705(g), Idaho Code, and subsections (b), (e), (f) and (g) of this section, a filed financing statement is effective for a period of five (5) years after the date of filing.

(b) Except as otherwise provided in subsections (e), (f) and (g) of this section, an initial financing statement filed in connection with a public finance transaction or manufactured home transaction is effective for a period of thirty (30) years after the date of filing if it indicates that it is filed in connection with a public finance transaction or manufactured home transaction.

(c) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to subsection (d) of this section. Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(d) Except as otherwise provided in section 28-9-705(g), Idaho Code, a continuation statement may be filed only within six (6) months before the expiration of the five (5) year period specified in subsection (a) of this section or the thirty (30) year period specified in subsection (b) of this section, whichever is applicable.

(e) Except as otherwise provided in sections 28-9-510 and 28-9-705(g), Idaho Code, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five (5) years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the five (5) year period, the financing statement lapses in the same manner as provided in subsection (c) of this section, unless, before the lapse, another continuation statement is filed pursuant to subsection (d) of this section. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(f) If a debtor is a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed.

(g) A record of a mortgage that is effective as a financing statement filed as a fixture filing under section 28-9-502(c), Idaho Code, remains effective as a financing statement filed as a fixture filing until the mortgage

is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

SECTION 14. That Section 28-9-516, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-516. WHAT CONSTITUTES FILING -- EFFECTIVENESS OF FILING. (a) Except as otherwise provided in subsection (b) of this section, communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(b) Filing does not occur with respect to a record that a filing office refuses to accept because:

(1) The record is not communicated by a method or medium of communication authorized by the filing office;

(2) An amount equal to or greater than the applicable filing fee is not tendered;

(3) The filing office is unable to index the record because:

(A) in the case of an initial financing statement, the record does not provide a name for the debtor;

(B) in the case of an amendment or ~~correction~~ information statement, the record:

(i) does not identify the initial financing statement as required by section 28-9-512 or 28-9-518, Idaho Code, as applicable; or

(ii) identifies an initial financing statement whose effectiveness has lapsed under section 28-9-515, Idaho Code;

(C) in the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name surname; or

(D) in the case of a record filed, or recorded, in the filing office described in section 28-9-501(a)(1), Idaho Code, the record does not provide a sufficient description of the real property to which it relates;

(4) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(5) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, except for financing statements covering farm products and amendments of such financing statements, the record does not:

(A) provide a mailing address for the debtor; or

(B) indicate whether the name provided as the name of the debtor is the name of an individual or an organization; ~~or~~

~~(C) if the financing statement indicates that the debtor is an organization, provide:~~

~~(i) a type of organization for the debtor;~~

~~(ii) a jurisdiction of organization for the debtor; or~~

~~(iii) an organizational identification number for the debtor or indicate that the debtor has none;~~

(6) In the case of an assignment reflected in an initial financing statement under section 28-9-514(a), Idaho Code, or an amendment filed under section 28-9-514(b), Idaho Code, the record does not provide a name and mailing address for the assignee;

(7) In the case of a continuation statement, the record is not filed within the six (6) month period prescribed by section 28-9-515(d), Idaho Code;

(8) In the case of a financing statement covering farm products, the financing statement does not contain all of the information specified in section 28-9-502(e), Idaho Code, and does not conform to the official form for farm products financing statements published by the secretary of state; or

(9) In the case of an amendment or correction statement relating to a financing statement covering farm products, the amendment or correction statement does not conform to the official form for amendment or correction statements relating to financing statements covering farm products published by the secretary of state.

(10) The filing office is prohibited from accepting the filing pursuant to the provisions of section 28-9-516A, Idaho Code.

(c) For purposes of subsection (b) of this section:

(1) A record does not provide information if the filing office is unable to read or decipher the information; and

(2) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by section 28-9-512, 28-9-514 or 28-9-518, Idaho Code, is an initial financing statement.

(d) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (b) of this section, is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

SECTION 15. That Section 28-9-516A, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-516A. FILING OFFICER DUTIES. (1) The filing officer shall not file an initial financing statement or financing statement amendment:

(a) Which contains an assumed business name for either an individual or a business entity other than a general partnership if the assumed business name is designated as an assumed business name and the true name of the person using the assumed business name is not included.

(b) When an individual debtor and an individual secured party would, as a result of the filing, appear to be the same individual on the financing statement.

(2) The filing officer may require, prior to filing, reasonable proof from the secured party that an individual debtor is in fact a "transmitting utility" as defined in section 28-9-102, Idaho Code, if a filing indicates that the debtor is a transmitting utility.

(3) The filing officer may, prior to filing, cause to be unreadable any signatures, social security account numbers, taxpayer identification numbers, and employer identification numbers that appear on financing statements or financing statement amendments.

(4) The secretary of state may petition the district court in Ada county for an order to show cause why filings not in compliance with subsections (1) and (2) of this section should not be deleted from the files and records of the secretary of state.

SECTION 16. That Section 28-9-518, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-518. CLAIM CONCERNING INACCURATE OR WRONGFULLY FILED RECORD. (a) A person may file in the filing office a ~~correction~~ an information statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(b) ~~A correction~~ An information statement under subsection (a) of this section must:

- (1) Identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;
- (2) Indicate that it is a ~~correction~~ an information statement; and
- (3) Provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(c) A person may file in the filing office an information statement with respect to a record filed there if the person is a secured party of record with respect to the financing statement to which the record relates and believes that the person that filed the record was not entitled to do so under section 28-9-509(d), Idaho Code.

(d) An information statement under subsection (c) of this section must:

- (1) Identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;
- (2) Indicate that it is an information statement; and
- (3) Provide the basis for the person's belief that the person that filed the record was not entitled to do so under section 28-9-509(d), Idaho Code.

(ee) The filing of a ~~correction~~ an information statement does not affect the effectiveness of an initial financing statement or other filed record.

(df) ~~A correction~~ An information statement may be filed in connection with the previous filing of a financing statement covering farm products under section 28-9-502, Idaho Code.

SECTION 17. That Section 28-9-521, Idaho Code, be, and the same is hereby repealed.

SECTION 18. That Chapter 9, Title 28, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 28-9-521, Idaho Code, and to read as follows:

28-9-521. UNIFORM FORM OF WRITTEN FINANCING STATEMENT AND AMENDMENT. (a) A filing office that accepts written records may not refuse to accept a written initial financing statement in the following form and format except for a reason set forth in section 28-9-516(b), Idaho Code:



UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)
B. E-MAIL CONTACT AT FILER (optional)
C. SEND ACKNOWLEDGMENT TO: (Name and Address)
<div style="border: 1px solid black; width: 100%; height: 100%; margin: 0 auto;"> <div style="border: 1px solid black; width: 80%; height: 80%; margin: 0 auto;"></div> </div>

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name, do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here and provide the individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

1a. ORGANIZATION'S NAME				
OR				
1b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX	
1c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name, do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here and provide the individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

2a. ORGANIZATION'S NAME				
OR				
2b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX	
2c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME				
OR				
3b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX	
3c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

4. COLLATERAL: This financing statement covers the following collateral:

5. Check only if applicable and check only one box: Collateral is held in a Trust (see UCC1Ad, item 17 and Instructions) being administered by a Decedent's Personal Representative

6a. Check only if applicable and check only one box: Public-Finance Transaction Manufactured-Home Transaction A Debtor is a Transmitting Utility

6b. Check only if applicable and check only one box: Agricultural Lien Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable): Lessee/Lessor Consignee/Consignor Seller/Buyer Bailee/Bailor Licensee/Licensor

8. OPTIONAL FILER REFERENCE DATA:

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS

9. NAME OF FIRST DEBTOR: Same as line 1a or 1b on Financing Statement; if line 1b was left blank because individual Debtor name did not fit, check here

9a. ORGANIZATION'S NAME	
OR	
9b. INDIVIDUAL'S SURNAME	
FIRST PERSONAL NAME	
ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

10. DEBTOR'S NAME: Provide (10a or 10b) only one additional Debtor name or Debtor name that did not fit in line 1b or 2b of the Financing Statement (Form UCC1) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name) and enter the mailing address in line 10c

10a. ORGANIZATION'S NAME				
OR				
10b. INDIVIDUAL'S SURNAME				
INDIVIDUAL'S FIRST PERSONAL NAME				
INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S)				SUFFIX
10c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

11. ADDITIONAL SECURED PARTY'S NAME *or* ASSIGNOR SECURED PARTY'S NAME: Provide only one name (11a or 11b)

11a. ORGANIZATION'S NAME				
OR				
11b. INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
11c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

12. ADDITIONAL SPACE FOR ITEM 4 (Collateral):

<p>13. <input type="checkbox"/> This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS (if applicable)</p> <p>15. Name and address of a RECORD OWNER of real estate described in item 16 (if Debtor does not have a record interest):</p>	<p>14. This FINANCING STATEMENT: <input type="checkbox"/> covers timber to be cut <input type="checkbox"/> covers as-extracted collateral <input type="checkbox"/> is filed as a fixture filing</p> <p>16. Description of real estate:</p>
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17. MISCELLANEOUS:

(b) A filing office that accepts written records may not refuse to accept a written record in the following form and format except for a reason set forth in section 28-9-516 (b) , Idaho Code:



UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY
B. E-MAIL CONTACT AT FILER (optional)	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	

1a. INITIAL FINANCING STATEMENT FILE NUMBER 1b. This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS
Filer: attach Amendment Addendum (Form UCC3Ad) and provide Debtor's name in item 13

2. TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement

3. ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 9
For partial assignment, complete items 7 and 9 and also indicate affected collateral in item 8

4. CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law

5. PARTY INFORMATION CHANGE:
Check one of these two boxes: AND Check one of these three boxes to:
This Change affects Debtor or Secured Party of record CHANGE name and/or address: Complete item 6a or 6b; and item 7a or 7b and item 7c ADD name: Complete item 7a or 7b, and item 7c DELETE name: Give record name to be deleted in item 6a or 6b

6. CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one name (6a or 6b)

6a. ORGANIZATION'S NAME

OR

6b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
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7. CHANGED OR ADDED INFORMATION: Complete for Assignment or Party Information Change - provide only one name (7a or 7b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name)

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S SURNAME

INDIVIDUAL'S FIRST PERSONAL NAME

INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
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8. COLLATERAL CHANGE: Also check one of these four boxes: ADD collateral DELETE collateral RESTATE covered collateral ASSIGN collateral
Indicate collateral:

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT: Provide only one name (9a or 9b) (name of Assignor, if this is an Assignment)
If this is an Amendment authorized by a DEBTOR, check here and provide name of authorizing Debtor

9a. ORGANIZATION'S NAME

OR

9b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
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10. OPTIONAL FILER REFERENCE DATA:

UCC FINANCING STATEMENT AMENDMENT ADDENDUM

FOLLOW INSTRUCTIONS

11. INITIAL FINANCING STATEMENT FILE NUMBER: Same as item 1a on Amendment form	
12. NAME OF PARTY AUTHORIZING THIS AMENDMENT: Same as item 9 on Amendment form	
12a. ORGANIZATION'S NAME	
OR	
12b. INDIVIDUAL'S SURNAME	
FIRST PERSONAL NAME	
ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

13. Name of DEBTOR on related financing statement (Name of a current Debtor of record required for indexing purposes only in some filing offices - see instruction item 13): Provide only one Debtor name (13a or 13b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); see instructions if name does not fit

13a. ORGANIZATION'S NAME			
OR			
13b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

14. ADDITIONAL SPACE FOR ITEM 8 (Collateral):

<p>15. This FINANCING STATEMENT AMENDMENT:</p> <p><input type="checkbox"/> covers timber to be cut <input type="checkbox"/> covers as-extracted collateral <input type="checkbox"/> is filed as a fixture filing</p> <p>16. Name and address of a RECORD OWNER of real estate described in item 17 (if Debtor does not have a record interest):</p>	<p>17. Description of real estate:</p>
18. MISCELLANEOUS:	

SECTION 19. That Section 28-9-607, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-607. COLLECTION AND ENFORCEMENT BY SECURED PARTY. (a) If so agreed, and in any event after default, a secured party:

(1) May notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

(2) May take any proceeds to which the secured party is entitled under section 28-9-315, Idaho Code;

(3) May enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

(4) If it holds a security interest in a deposit account perfected by control under section 28-9-104(a)(1), Idaho Code, may apply the balance of the deposit account to the obligation secured by the deposit account; and

(5) If it holds a security interest in a deposit account perfected by control under section 28-9-104(a)(2) or (3), Idaho Code, may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

(b) If necessary to enable a secured party to exercise, under subsection (a)(3) of this section, the right of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which a record of the mortgage is recorded:

(1) A copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(2) The secured party's sworn affidavit in recordable form stating that:

(A) a default has occurred with respect to the obligation secured by the mortgage; and

(B) the secured party is entitled to enforce the mortgage nonjudicially.

(c) A secured party shall proceed in a commercially reasonable manner if the secured party:

(1) Undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

(2) Is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(d) A secured party may deduct from the collections made pursuant to subsection (c) of this section reasonable expenses of collection and enforcement, including reasonable attorney's fees and legal expenses incurred by the secured party.

(e) This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

SECTION 20. That Chapter 9, Title 28, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 8, Chapter 9, Title 28, Idaho Code, and to read as follows:

PART 8
TRANSITION PROVISIONS FOR 2011 AMENDMENTS

28-9-801. [RESERVED.]

28-9-802. SAVINGS CLAUSE. (a) Except as otherwise provided in this part, this act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before this act takes effect.

(b) This act does not affect an action, case, or proceeding commenced before this act takes effect.

28-9-803. SECURITY INTEREST PERFECTED BEFORE EFFECTIVE DATE. (a) A security interest that is a perfected security interest immediately before this act takes effect is a perfected security interest under this chapter as amended by this act if, when this act takes effect, the applicable requirements for attachment and perfection under this chapter as amended by this act are satisfied without further action.

(b) Except as otherwise provided in section 28-9-805, Idaho Code, if, immediately before this act takes effect, a security interest is a perfected security interest, but the applicable requirements for perfection under this chapter as amended by this act are not satisfied when this act takes effect, the security interest remains perfected thereafter only if the applicable requirements for perfection under this chapter as amended by this act are satisfied within one (1) year after this act takes effect.

28-9-804. SECURITY INTEREST UNPERFECTED BEFORE EFFECTIVE DATE. A security interest that is an unperfected security interest immediately before this act takes effect becomes a perfected security interest:

- (1) Without further action, when this act takes effect if the applicable requirements for perfection under this chapter as amended by this act are satisfied before or at that time; or
- (2) When the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

28-9-805. EFFECTIVENESS OF ACTION TAKEN BEFORE EFFECTIVE DATE. (a) The filing of a financing statement before this act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this chapter as amended by this act.

(b) This act does not render ineffective an effective financing statement that, before this act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this chapter as it existed before amendment. However, except as otherwise provided in subsections (c) and (d) of this section and section 28-9-806, Idaho Code, the financing statement ceases to be effective:

- (1) If the financing statement is filed in this state, at the time the financing statement would have ceased to be effective had this act not taken effect; or
- (2) If the financing statement is filed in another jurisdiction, at the earlier of:
 - (A) the time the financing statement would have ceased to be effective under the law of that jurisdiction; or
 - (B) June 30, 2018.

(c) The filing of a continuation statement after this act takes effect does not continue the effectiveness of the financing statement filed before this act takes effect. However, upon the timely filing of a continuation statement after this act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in this chapter as amended by this act, the effectiveness of a financing statement filed in the same office in that jurisdiction before this act takes effect continues for the period provided by the law of that jurisdiction.

(d) Subsection (b) (2) (B) of this section applies to a financing statement that, before this act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this chapter as it existed before amendment, only to the extent that this chapter as amended by this act provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(e) A financing statement that includes a financing statement filed before this act takes effect and a continuation statement filed after this act takes effect is effective only to the extent that it satisfies the requirements of part 5 of this chapter as amended by this act for an initial financing statement. A financing statement that indicates that the debtor is a decedent's estate indicates that the collateral is being administered by a personal representative within the meaning of section 28-9-503(a) (2), Idaho Code, as amended by this act. A financing statement that indicates that the debtor is a trust or is a trustee acting with respect to property held in trust indicates that the collateral is held in a trust within the meaning of section 28-9-503(a) (3), Idaho Code, as amended by this act.

28-9-806. WHEN INITIAL FINANCING STATEMENT SUFFICES TO CONTINUE EFFECTIVENESS OF FINANCING STATEMENT. (a) The filing of an initial financing statement in the office specified in section 28-9-501, Idaho Code, continues the effectiveness of a financing statement filed before this act takes effect if:

- (1) The filing of an initial financing statement in that office would be effective to perfect a security interest under this chapter as amended by this act;
- (2) The pre-effective-date financing statement was filed in an office in another state; and
- (3) The initial financing statement satisfies subsection (c) of this section.

(b) The filing of an initial financing statement under subsection (a) of this section continues the effectiveness of the pre-effective-date financing statement:

- (1) If the initial financing statement is filed before this act takes effect, for the period provided in unamended section 28-9-515, Idaho Code, with respect to an initial financing statement; and
- (2) If the initial financing statement is filed after this act takes effect, for the period provided in section 28-9-515, Idaho Code, as amended by this act with respect to an initial financing statement.

(c) To be effective for purposes of subsection (a) of this section, an initial financing statement must:

- (1) Satisfy the requirements of part 5 of this chapter as amended by this act for an initial financing statement;
- (2) Identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(3) Indicate that the pre-effective-date financing statement remains effective.

28-9-807. AMENDMENT OF PRE-EFFECTIVE-DATE FINANCING STATEMENT. (a) In this section, "pre-effective-date financing statement" means a financing statement filed before this act takes effect.

(b) After this act takes effect, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in this chapter as amended by this act. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) Except as otherwise provided in subsection (d) of this section, if the law of this state governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after this act takes effect only if:

(1) The pre-effective-date financing statement and an amendment are filed in the office specified in section 28-9-501, Idaho Code;

(2) An amendment is filed in the office specified in section 28-9-501, Idaho Code, concurrently with, or after the filing in that office of, an initial financing statement that satisfies section 28-9-806(c), Idaho Code; or

(3) An initial financing statement that provides the information as amended and satisfies section 28-9-806(c), Idaho Code, is filed in the office specified in section 28-9-501, Idaho Code.

(d) If the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under section 28-9-805(c) and (e) or 28-9-806, Idaho Code.

(e) Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this state may be terminated after this act takes effect by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies section 28-9-806(c), Idaho Code, has been filed in the office specified by the law of the jurisdiction governing perfection as provided in this chapter as amended by this act as the office in which to file a financing statement.

28-9-808. PERSON ENTITLED TO FILE INITIAL FINANCING STATEMENT OR CONTINUATION STATEMENT. A person may file an initial financing statement or a continuation statement under this part if:

(1) The secured party of record authorizes the filing; and

(2) The filing is necessary under this part:

(A) to continue the effectiveness of a financing statement filed before this act takes effect; or

(B) to perfect or continue the perfection of a security interest.

28-9-809. PRIORITY. This act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before this act takes effect, this chapter as it existed before amendment determines priority.

SECTION 21. That Section 28-12-103, Idaho Code, be, and the same is hereby amended to read as follows:

28-12-103. DEFINITIONS AND INDEX OF DEFINITIONS. (1) In this chapter unless the context otherwise requires:

(a) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.

(c) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(d) "Conforming goods or performance under a lease contract" means goods or performance that is in accordance with the obligations under the lease contract.

(e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family or household purpose, if the total payments to be made under the lease contract, excluding payments for options to renew or buy, do not exceed twenty-five thousand dollars (\$25,000).

(f) "Fault" means wrongful act, omission, breach or default.

(g) "Finance lease" means a lease with respect to which:

- (i) The lessor does not select, manufacture, or supply the goods;
- (ii) The lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and
- (iii) One (1) of the following occurs:

(A) The lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

(B) The lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract;

(C) The lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; or

(D) If the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing:

- a. Of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person;
- b. That the lessee is entitled under this chapter to the promises and warranties, including those of any

third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; and

c. That the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (section 28-12-309, Idaho Code), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this chapter. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this chapter and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(o) "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination or cancellation of the lease contract.

(r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) "Present value" means the amount as of a date certain of one (1) or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift or any other voluntary transaction creating an interest in goods.

(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this chapter and the sections in which they appear are:

"Accessions."	<u>S</u> section 28-12-310 (1), Idaho Code.
"Construction mortgage."	<u>S</u> section 28-12-309 (1) (d), Idaho Code.
"Encumbrance."	<u>S</u> section 28-12-309 (1) (e), Idaho Code.
"Fixtures."	<u>S</u> section 28-12-309 (1) (a), Idaho Code.
"Fixture filing."	<u>S</u> section 28-12-309 (1) (b), Idaho Code.
"Purchase money lease."	<u>S</u> section 28-12-309 (1) (c), Idaho Code.

(3) The following definitions in other chapters apply to this chapter:

"Account."	<u>S</u> section 28-9-102 (a) (2), Idaho Code.
"Between merchants."	<u>S</u> section 28-2-104 (3), Idaho Code.
"Buyer."	<u>S</u> section 28-2-103 (1) (a), Idaho Code.
"Chattel paper."	<u>S</u> section 28-9-102 (a) (11), Idaho Code.
"Consumer goods."	<u>S</u> section 28-9-102 (a) (23), Idaho Code.
"Document."	<u>S</u> section 28-9-102 (a) (30), Idaho Code.
"Entrusting."	<u>S</u> section 28-2-403 (3), Idaho Code.
"General intangible."	<u>S</u> section 28-9-102 (a) (42), Idaho Code.
"Good faith."	<u>S</u> section 28-1-201 (b) (20), Idaho Code.
"Instrument."	<u>S</u> section 28-9-102 (a) (47), Idaho Code.
"Merchant."	<u>S</u> section 28-2-104 (1), Idaho Code.
"Mortgage."	<u>S</u> section 28-9-102 (a) (55), Idaho Code.
"Pursuant to commitment."	<u>S</u> section 28-9-102 (a) (689), Idaho Code.
"Receipt."	<u>S</u> section 28-2-103 (1) (c), Idaho Code.
"Sale."	<u>S</u> section 28-2-106 (1), Idaho Code.
"Sale on approval."	<u>S</u> section 28-2-326, Idaho Code.
"Sale or return."	<u>S</u> section 28-2-326, Idaho Code.
"Seller."	<u>S</u> section 28-2-103 (1) (d), Idaho Code.

(4) In addition, chapter 1, title 28, contains general definitions and principles of construction and interpretation applicable throughout this chapter.

SECTION 22. This act shall be in full force and effect on and after July 1, 2013.

Approved March 27, 2012.

CHAPTER 146
(S.B. No. 1314)

AN ACT

RELATING TO THE PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS; AMENDING SECTION 33-5004, IDAHO CODE, TO REVISE PROVISIONS AND ESTABLISH ADDITIONAL PROVISIONS RELATING TO CERTAIN GIFT INSTRUMENTS.

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

SECTION 1. That Section 33-5004, Idaho Code, be, and the same is hereby amended to read as follows:

33-5004. APPROPRIATION FOR EXPENDITURE OR ACCUMULATION OF ENDOWMENT FUND -- RULES OF CONSTRUCTION. (1) Subject to the intent of a donor expressed in the gift instrument, an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes and duration for which the endowment fund is established. Unless stated otherwise in the gift instrument, the assets in an endowment fund are donor restricted assets until appropriated for expenditure by the institution. In making a determination to appropriate or accumulate, the institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, if relevant, the following factors:

- (a) The duration and preservation of the endowment fund;
- (b) The purposes of the institution and the endowment fund;
- (c) General economic conditions;
- (d) The possible effect of inflation or deflation;
- (e) The expected total return from income and the appreciation of investments;
- (f) Other resources of the institution; and
- (g) The investment policy of the institution.

(2) Subject to the provisions of subsection (3) of this section, to limit the authority to appropriate for expenditure or accumulate under subsection (1) of this section, a gift instrument must specifically state the limitation.

(3) Terms in a gift instrument designating a gift as an endowment, or a any general or specific direction or authorization in the gift instrument to use only "income," "interest," "dividends" or "rents, issues or profits," or "to preserve the principal intact," or words of similar import, or any direction in such gift instrument relating to measuring permitted distributions to permitted payees by reference to certain types or classes of investment returns, or allocation in such gift instrument of certain types or classes of returns to income or principal:

- (a) Create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund; and
- (b) Do not otherwise limit the authority to appropriate for expenditure or accumulate under subsection (1) of this section.

Approved March 27, 2012.

CHAPTER 147
(S.B. No. 1319)

AN ACT

RELATING TO MOTOR VEHICLE FINANCIAL RESPONSIBILITY; AMENDING SECTION 49-1232, IDAHO CODE, TO PROVIDE THAT A CERTAIN CERTIFICATE OR PROOF OF LIABILITY INSURANCE MAY BE PRODUCED IN PAPER OR ELECTRONIC FORMAT AND TO PROVIDE THE ACCEPTABLE ELECTRONIC FORMATS.

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

SECTION 1. That Section 49-1232, Idaho Code, be, and the same is hereby amended to read as follows:

49-1232. CERTIFICATE OR PROOF OF LIABILITY INSURANCE TO BE CARRIED IN MOTOR VEHICLE. (1) A certificate or proof of liability insurance shall be in the possession of the operator of every motor vehicle or present in every motor vehicle at all times when the vehicle is operated within this state. The certificate or proof of liability insurance shall be provided for inspection to any peace officer upon request to the operator of any motor vehicle. No person shall be convicted of violating this section if that person produces at any time prior to conviction the certificate or proof of liability insurance covering the motor vehicle that person is accused of operating in violation of this section, where the certificate or proof of liability insurance demonstrates the existence of liability insurance described in section 49-1212, Idaho Code, which was in effect at the time of occurrence of the violation. The certificate or proof of liability insurance required by this section may be produced in either paper or electronic format. Acceptable electronic formats include display of electronic images on a cellular phone or any other type of portable electronic device.

(2) If the court has not ordered the department to suspend the driving privileges of any person convicted of a violation of the provisions of this section, the department may rescind the suspension action, only if the driver can prove by sufficient evidence that the legally required motor vehicle insurance or other required evidence of financial responsibility was in force and effect at the time of the issuance of the citation. No reinstatement fee will be assessed for rescinding the suspension action under this section.

(3) It is an infraction punishable by a fine of seventy-five dollars (\$75.00) for any person to violate the provisions of this section for the first time. A second and any subsequent conviction for a violation of the provisions of this section or the provisions of section 49-1229 or 49-1428, Idaho Code, within five (5) years shall be a misdemeanor, punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six (6) months, or both. The department shall notify any person convicted of a violation of this section of the penalties which may be imposed for a second and any subsequent conviction.

Approved March 27, 2012.

CHAPTER 148
(S.B. No. 1323, As Amended)

AN ACT

RELATING TO BOARD OF TRUSTEES OF LIBRARY DISTRICTS; AMENDING SECTION 33-2716, IDAHO CODE, TO REVISE CERTAIN PROVISIONS RELATING TO THE RECALL OF LIBRARY DISTRICT TRUSTEES.

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

SECTION 1. That Section 33-2716, Idaho Code, be, and the same is hereby amended to read as follows:

33-2716. BOARD OF TRUSTEES -- NOMINATION AND ELECTION -- RECALL -- VACANCIES. (1) The procedure for nomination and election of trustees of a library district shall be as provided for in chapter 14, title 34, Idaho Code, and in the general election laws of Idaho. If any two (2) or more candidates for the same trustee position have an equal number of votes, the board of trustees shall determine the winner by a toss of a coin.

(2) ~~Notwithstanding the limitations of chapter 17, title 34, Idaho Code, e~~Each library district trustee shall be subject to recall following procedures as closely as possible to the procedures described for the recall of county commissioners pursuant to provided in chapter 17, title 34, Idaho Code.

Individuals signing a petition to recall a library trustee or voting in an election to recall a library trustee shall meet the requirements of section 33-2702, Idaho Code.

~~If, pursuant to section 33-2717, Idaho Code, no election was held for the trustee being recalled:~~

~~(a) The number of district electors required to sign the petition seeking a recall election must be not less than fifty (50), or twenty percent (20%) of the number of votes cast in the last trustee election held in the library district, whichever is the greater.~~

~~(b) To recall any trustee, a majority of the votes cast at the recall election must be in favor of the recall, and additionally, the number of votes cast in the recall election must equal or exceed the number of votes cast in the last trustee election held in the library district.~~

(3) A vacancy shall be declared by the board of trustees when any nominee has been elected but has failed to qualify for office, or within thirty (30) days of when any trustees shall (a) die; (b) resign from office; (c) no longer reside in his respective trustee zone of residence; (d) no longer be a resident or qualified elector of the public library district; (e) refuse to serve as trustee; (f) without excuse acceptable to the board of trustees, fail to attend two (2) consecutive regular meetings of the board; or (g) be recalled and discharged from office as provided in this chapter.

A declaration of vacancy shall be made at any regular or special meeting of the board of trustees, at which any of the above-mentioned conditions is determined to exist.

The board of trustees shall appoint to fill the vacancy, a person qualified to serve as trustee of the public library district, provided there remains in membership on the board of trustees a majority of the membership thereof, and the board shall notify the board of library commissioners of the appointment. This appointment shall be made within sixty (60) days of the declaration of vacancy. In the event that the board of trustees fails to exercise their authority, appointments shall be made by the board of county commissioners of the home county in which the district is located within thirty (30) days after the expiration of the sixty (60) days allowed for trustees for this action.

Any person appointed as provided in this chapter shall serve until the next election of public library district trustees following the appointment. At the election a trustee shall be elected to complete the unexpired term of the office which was declared vacant filled by appointment.

The elected trustee shall assume office at the first annual meeting of the public library district following the election.

Approved March 27, 2012.

CHAPTER 149
(S.B. No. 1332)

AN ACT

RELATING TO ATTORNEY'S FEES, WITNESS FEES AND EXPENSES AWARDED IN CERTAIN INSTANCES; AMENDING SECTION 12-117, IDAHO CODE, TO REVISE WHEN ATTORNEY'S FEES, WITNESS FEES AND EXPENSES MAY BE AWARDED, TO REVISE DEFINITIONS, TO DEFINE A TERM 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 12-117, Idaho Code, be, and the same is hereby amended to read as follows:

12-117. ATTORNEY'S FEES, WITNESS FEES AND EXPENSES AWARDED IN CERTAIN INSTANCES. (1) Unless otherwise provided by statute, in any ~~administrative proceeding or civil judicial proceeding~~ involving as adverse parties a state agency or a political subdivision and a person, the state agency, ~~or~~ political subdivision or the court hearing the proceeding, ~~as the case may be including on appeal~~, shall award the prevailing party reasonable attorney's fees, witness fees and other reasonable expenses, if it finds that the nonprevailing party acted without a reasonable basis in fact or law.

(2) If a party to an ~~administrative proceeding or to a civil judicial proceeding~~ prevails on a portion of the case, and the state agency or political subdivision or the court hearing the proceeding, ~~as the case may be including on appeal~~, finds that the nonprevailing party acted without a reasonable basis in fact or law with respect to that portion of the case, it shall award the partially prevailing party reasonable attorney's fees, witness fees and other reasonable expenses with respect to that portion of the case on which it prevailed.

(3) Expenses awarded against a state agency or political subdivision pursuant to this section shall be paid from funds in the regular operating budget of the state agency or political subdivision. If sufficient funds are not available in the budget of the state agency, the expenses shall be considered a claim governed by the provisions of section 67-2018, Idaho Code. If sufficient funds are not available in the budget of the political subdivision, the expenses shall be considered a claim pursuant to chapter 9, title 6, Idaho Code. Every state agency or political subdivision against which litigation expenses have been awarded under this act shall, at the time of submission of its proposed budget, submit a report to the governmental body which appropriates its funds in which the amount of expenses awarded and paid under this act during the fiscal year is stated.

(4) ~~For the purposes of this section:~~ In any civil judicial proceeding involving as adverse parties a governmental entity and another governmental entity, the court shall award the prevailing party reasonable attorney's fees, witness fees and other reasonable expenses. For purposes of this subsection, "governmental entity" means any state agency or political subdivision.

(5) For purposes of this section:

(a) "Person" shall mean any individual, partnership, limited liability partnership, corporation, limited liability company, association or any other private organization;

(b) "Political subdivision" shall mean a city, a county, or any taxing district- or a health district;

(c) "Proceeding" means any administrative proceeding, administrative judicial proceeding, civil judicial proceeding or petition for judicial review or any appeal from any administrative proceeding, administrative judicial proceeding, civil judicial proceeding or petition for judicial review.

(d) "State agency" shall mean any agency as defined in section 67-5201, Idaho Code.

(56) If the amount pleaded in an action by a person is ~~two~~ twenty-five thousand ~~five hundred~~ dollars (~~\$2,500~~25,000) or less, the person must satisfy the requirements of section 12-120, Idaho Code, as well as the requirements of this section before he or she may recover attorney's fees, witness fees or expenses pursuant to this section.

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

Approved March 27, 2012.

CHAPTER 150
(S.B. No. 1335)

AN ACT

RELATING TO THE IDAHO ENERGY RESOURCES AUTHORITY; AMENDING SECTION 67-8907, IDAHO CODE, TO REDUCE THE AMOUNT OF THE SURETY BONDS THAT OFFICERS MUST EXECUTE.

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

SECTION 1. That Section 67-8907, Idaho Code, be, and the same is hereby amended to read as follows:

67-8907. ORGANIZATIONAL MEETING -- CHAIRMAN -- SECRETARY AND TREASURER -- EXECUTIVE DIRECTOR -- DELEGATION OF POWER -- SURETY BOND AND CONFLICT OF INTEREST. (1) A director designated by the governor shall call and convene the initial organizational meeting of the authority and shall serve as its chairman pro tempore. At such meeting, appropriate bylaws shall be presented for adoption. The bylaws may provide for the election or appointment of officers and the delegation of certain powers and duties and such other matters as the authority deems proper. At such meeting and annually thereafter the board shall elect one (1) of the directors as chairman and one (1) as vice chairman.

(2) The board shall appoint a secretary and a treasurer and may appoint one (1) or more assistant secretaries and assistant treasurers, any of whom may be, but not required to be, a director of the authority, and who shall serve at the pleasure of the board. A single individual may be appointed as secretary-treasurer. They shall receive such compensation for their services as shall be fixed by the board. The secretary or an assistant secretary designated by the board shall keep a record of the proceedings of the board and shall be custodian of all books, documents, and papers filed with the authority, the minute books or journal thereof and its official seal. The

secretary or any assistant secretary shall cause necessary copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies and all persons dealing with the authority may rely on such certificates. The treasurer shall have custody of and responsibility for the safekeeping of the funds and investments of the authority.

(3) The board may employ an executive officer and one (1) or more additional employees as it shall deem necessary and expedient to carry out its purposes. The executive officer may be, but is not required to be, a director of the authority. The executive officer shall serve at the pleasure of the board and shall receive such compensation as shall be fixed by the board.

(4) The board may delegate by resolution such powers and duties as it may deem proper to one (1) or more of its directors or to its secretary, executive officer or any assistant officers.

(5) The secretary, the treasurer and any executive officer shall execute a surety bond in the penal sum of ~~one million~~ five hundred thousand dollars (\$~~1,0~~500,000) or, in lieu thereof, the chairman of the authority shall execute a blanket bond covering each director, the secretary, the treasurer, the executive officer and any other employees or officers of the authority, each surety bond to be conditioned upon the faithful performance of the duties of the office or offices covered, to be executed by a surety authorized to transact business in this state as surety. The cost of each such bond shall be paid by the authority.

(6) Notwithstanding any other law to the contrary, it shall not constitute a conflict of interest for a trustee, director, officer, or employee of any electric corporation, electric utility, financial institution, investment banking firm, brokerage firm, commercial bank or trust company, architecture firm, insurance company, or any other firm, person or corporation to serve as a director of the authority, provided such trustee, director, officer, or employee shall abstain from deliberation, action and vote by the authority in each instance where the business affiliation of any such trustee, director, officer, or employee is involved.

Approved March 27, 2012.

CHAPTER 151
(S.B. No. 1346)

AN ACT

RELATING TO LIVESTOCK PROCEEDS; AMENDING SECTION 25-1174, IDAHO CODE, TO PROVIDE THAT CERTAIN MONEYS THAT ESCHEAT TO THE STATE SHALL BE DEPOSITED INTO THE STATE BOARD OF EDUCATION'S MISCELLANEOUS REVENUE FUND FOR APPROPRIATION TO CERTAIN PUBLIC EDUCATION AND/OR HIGHER EDUCATION PROGRAMS AS RECOMMENDED BY THE IDAHO CATTLE FOUNDATION, INC., AND TO PROVIDE A DATE BY WHICH SUCH RECOMMENDATION SHALL BE GIVEN; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 25-1174, Idaho Code, be, and the same is hereby amended to read as follows:

25-1174. HEARING FOR CLAIMS TO LIVESTOCK PROCEEDS ACCOUNT. Any person claiming to be the owner of any livestock sold under the provisions of section 25-1172, Idaho Code, may claim the sale proceeds placed in the unclaimed livestock proceeds account, and the state brand inspector must inquire into such claim, and may hold a hearing for such purpose giving notice thereof to every claimant thereof at least thirty (30) days before the date

set for such hearing and after such hearing if satisfied of any claimant's right thereto, must issue an order granting a certificate to that effect and upon the presentation of the certificate the state controller must draw his warrant on the treasurer for the amount without interest. If no such certificate is presented to the state controller within eighteen (18) months after the date, such money is paid into the treasury of the state of Idaho and such money shall escheat to the state and be apportioned to the public school fund deposited into the office of the state board of education's miscellaneous revenue fund for appropriation to public education and/or higher education programs that advance the livestock industry and agriculture in general, as recommended by the Idaho cattle foundation, inc. Such recommendation shall be given to the state board of education no later than April 15 of each year.

SECTION 2. This act shall be in full force and effect on and after July 1, 2012.

Approved March 27, 2012.

CHAPTER 152
(S.B. No. 1359)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR FISCAL YEAR 2012; APPROPRIATING MONEYS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING AND TRANSFERRING MONEYS TO THE ENVIRONMENTAL REMEDIATION BASIN FUND; EXPRESSING LEGISLATIVE INTENT REGARDING THE ENVIRONMENTAL REMEDIATION BASIN FUND AND REQUIRING AN ANNUAL REPORT; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO USE OF THE WATER POLLUTION CONTROL FUND; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; 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 191, Laws of 2011, and any other appropriation provided for by law, there is hereby appropriated to the Department of Environmental Quality, the following amounts to be expended according to the designated programs and expense classes, from the listed fund for the period July 1, 2011, through June 30, 2012:

	FOR	FOR	FOR	
	PERSONNEL	OPERATING	TRUSTEE AND	
	COSTS	EXPENDITURES	BENEFIT	TOTAL
			PAYMENTS	
I. ADMINISTRATION AND SUPPORT SERVICES:				
FROM:				
Bunker Hill Trust				
Fund		\$11,200		\$11,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. WASTE MANAGEMENT AND REMEDIATION:				
FROM:				
Bunker Hill Trust				
Fund	\$10,000	\$600,000	\$50,000	\$660,000
GRAND TOTAL	\$10,000	\$611,200	\$50,000	\$671,200

SECTION 2. There is hereby appropriated to the Department of Environmental Quality, the following amounts to be expended according to the designated 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	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION AND SUPPORT SERVICES:					
FROM:					
General					
Fund	\$1,424,800	\$1,381,400			\$2,806,200
Air Quality Permitting					
Fund	199,100	185,200	\$10,200		394,500
Public Water System Supervision					
Fund	328,500	48,900	2,800		380,200
Water Pollution Control					
Fund	66,700	20,100	1,100		87,900
Department of Environmental Quality (Receipts)					
Fund	233,100	95,500	5,300		333,900
Bunker Hill Trust					
Fund		11,200			11,200
Department of Environmental Quality (Federal)					
Fund	<u>1,717,200</u>	<u>1,634,200</u>	<u>90,300</u>		<u>3,441,700</u>
TOTAL	\$3,969,400	\$3,376,500	\$109,700		\$7,455,600

II. AIR QUALITY:**FROM:****General**

Fund	\$2,572,200	\$247,600			\$2,819,800
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Air Quality Permitting

Fund	1,078,600	142,700		\$40,000	1,261,300
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Department of Environmental Quality (Receipts)

Fund	264,400	243,000			507,400
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	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Department of Environmental Quality (Federal)					
Fund	<u>1,209,200</u>	<u>674,200</u>	<u>\$32,000</u>	<u>41,400</u>	<u>1,956,800</u>
TOTAL	\$5,124,400	\$1,307,500	\$32,000	\$81,400	\$6,545,300
III. WATER QUALITY:					
FROM:					
General					
Fund	\$4,512,800	\$846,600		\$644,800	\$6,004,200
Public Water System Supervision					
Fund	942,500	163,200		336,500	1,442,200
Water Pollution Control					
Fund	561,500	334,300		158,200	1,054,000
Department of Environmental Quality (Receipts)					
Fund	436,500	158,000		51,600	646,100
Department of Environmental Quality (Federal)					
Fund	<u>4,316,800</u>	<u>1,599,500</u>		<u>2,683,200</u>	<u>8,599,500</u>
TOTAL	\$10,770,100	\$3,101,600		\$3,874,300	\$17,746,000
IV. COEUR D'ALENE BASIN COMMISSION:					
FROM:					
General					
Fund	\$99,600	\$10,200			\$109,800
Environmental Remediation (Basin)					
Fund	61,700	15,500			77,200
Department of Environmental Quality (Federal)					
Fund	<u>14,200</u>	<u>253,400</u>		<u>\$50,000</u>	<u>317,600</u>
TOTAL	\$175,500	\$279,100		\$50,000	\$504,600
V. WASTE MANAGEMENT AND REMEDIATION:					
FROM:					
General					
Fund	\$2,214,600	\$102,700		\$134,600	\$2,451,900
Environmental Remediation (Box)					
Fund	25,900	76,500		150,500	252,900
Environmental Remediation (Basin)					
Fund	81,600	841,600			923,200
Department of Environmental Quality (Receipts)					
Fund	547,600	1,092,100		51,800	1,691,500
American Reinvestment					
Fund		300,000			300,000
Bunker Hill Trust					
Fund	41,300	1,920,000		300,000	2,261,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Department of Environmental Quality (Federal)					
Fund	<u>3,158,600</u>	<u>16,603,400</u>		<u>15,500</u>	<u>19,777,500</u>
TOTAL	\$6,069,600	\$20,936,300		\$652,400	\$27,658,300

VI. IDAHO NATIONAL LABORATORY OVERSIGHT:

FROM:

General

Fund	\$75,600	\$8,700			\$84,300
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Department of Environmental Quality (Federal)

Fund	<u>854,600</u>	<u>468,800</u>	<u>\$40,000</u>	<u>\$596,900</u>	<u>1,960,300</u>
TOTAL	\$930,200	\$477,500	\$40,000	\$596,900	\$2,044,600

GRAND TOTAL	\$27,039,200	\$29,478,500	\$181,700	\$5,255,000	\$61,954,400
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SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Environmental Quality is authorized no more than three hundred seventy-six and five-hundredths (376.05) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. There is hereby appropriated to the Department of Environmental Quality and the State Controller shall transfer \$1,500,000 from the Water Pollution Control Fund to the Environmental Remediation Basin Fund, through monthly installments or as practicable for the period July 1, 2012, through June 30, 2013.

SECTION 5. LEGISLATIVE INTENT. It is the intent of the Legislature that moneys deposited into the Environmental Remediation Basin Fund are to be used for remediation of the Coeur d'Alene Basin in accordance with the superfund contract with the Environmental Protection Agency. The Department of Environmental Quality shall file an annual report with the Governor, the Legislature, and the Coeur d'Alene Basin Environmental Improvement Project Commission on the remediation progress and the expenditures involved.

SECTION 6. LEGISLATIVE INTENT. It is the intent of the Legislature that the appropriation of moneys from the Water Pollution Control Fund in this act specifically supersedes the provisions of Section 39-3630, Idaho Code.

SECTION 7. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees;

and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 27, 2012.

CHAPTER 153
(S.B. No. 1377)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2012; APPROPRIATING MONEYS TO THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 2, Chapter 254, Laws of 2011, and any other appropriation provided for by law, there is hereby appropriated \$367,000 to the Division of Vocational Rehabilitation, for the Community Supported Employment Program, from the General Fund, to be expended for personnel costs, for the period July 1, 2011, through June 30, 2012.

SECTION 2. There is hereby appropriated to the Division of Vocational Rehabilitation, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COMMUNITY SUPPORTED EMPLOYMENT:					
FROM:					
General					
Fund	\$433,600	\$23,700		\$3,248,300	\$3,705,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. RENAL DISEASE SERVICES:					
FROM:					
General					
Fund	\$70,000			\$352,700	\$422,700
III. VOCATIONAL REHABILITATION:					
FROM:					
General					
Fund	\$1,531,900	\$254,200		\$1,413,900	\$3,200,000
Rehabilitation Revenue and Refunds					
Fund	1,078,500			3,000	1,081,500
Miscellaneous Revenue					
Fund				970,700	970,700
Federal Grant					
Fund	<u>6,839,100</u>	<u>1,171,700</u>	<u>\$82,200</u>	<u>7,629,500</u>	<u>15,722,500</u>
TOTAL	\$9,449,500	\$1,425,900	\$82,200	\$10,017,100	\$20,974,700
IV. COUNCIL FOR THE DEAF AND HARD OF HEARING:					
FROM:					
General					
Fund	\$152,000	\$22,700			\$174,700
GRAND TOTAL	\$10,105,100	\$1,472,300	\$82,200	\$13,618,100	\$25,277,700

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Vocational Rehabilitation is authorized no more than one hundred fifty-one (151) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, 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 AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division

of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 27, 2012.

CHAPTER 154
(S.B. No. 1381)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 2013; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Idaho Educational Public Broadcasting System, the following amounts to be expended for the designated 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
FROM:				
General				
Fund	\$738,700	\$658,700	\$189,600	\$1,587,000
Miscellaneous Revenue				
Fund	<u>955,700</u>	<u>10,000</u>	<u>0</u>	<u>965,700</u>
TOTAL	\$1,694,400	\$668,700	\$189,600	\$2,552,700

SECTION 2. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been

rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho Educational Public Broadcasting System is authorized no more than thirty-one (31) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 27, 2012.

CHAPTER 155
(H.B. No. 615)

AN ACT

APPROPRIATING MONEYS TO THE CATASTROPHIC HEALTH CARE FUND FROM THE GENERAL FUND AND DIRECTING A TRANSFER FOR FISCAL YEAR 2013; AND PROVIDING LEGISLATIVE INTENT.

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

SECTION 1. There is hereby appropriated to the Catastrophic Health Care Program \$36,532,800 from the General Fund to be transferred to the Catastrophic Health Care Fund for the period July 1, 2012, through June 30, 2013.

SECTION 2. LEGISLATIVE INTENT. Notwithstanding the provisions of Section 57-813, Idaho Code, it is the intent of the Legislature that, after financial obligations resulting from cases approved by the Catastrophic Health Care Cost Program Board of Trustees are paid, any unused state funds in the Catastrophic Health Care Cost Account, as established by Section 57-813, Idaho Code, shall be transferred to the General Fund at the end of fiscal year 2013.

Law without signature.

CHAPTER 156
(H.B. No. 420)

AN ACT

RELATING TO INSURANCE ADMINISTRATORS; AMENDING SECTION 41-911, IDAHO CODE, TO ALLOW SUBMISSION OF UNAUDITED FINANCIAL STATEMENTS IN CONNECTION WITH HOME STATE LICENSE APPLICATIONS, AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 41-914, IDAHO CODE, TO REVISE ANNUAL REPORTING REQUIREMENTS FOR LICENSED ADMINISTRATORS.

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

SECTION 1. That Section 41-911, Idaho Code, be, and the same is hereby amended to read as follows:

41-911. HOME STATE LICENSE. (1) A person shall apply to be an administrator in its home state and shall receive a license from the regulatory authority of its home state prior to performing any function of an administrator in this state.

(2) A person applying to Idaho as the home state shall submit to the director an application in the form prescribed by the director that shall include or be accompanied by the following information and documents:

(a) All basic organizational documents of the applicant, including any articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement, certificate of existence from the Idaho secretary of state and other applicable documents and all amendments to such documents;

(b) The bylaws, rules, regulations or similar documents regulating the internal affairs of the applicant;

(c) NAIC biographical affidavits for the individuals who are directly or indirectly responsible for the conduct of affairs of the applicant, including all members of the board of directors, board of trustees, executive committee or other governing board or committee, the principal officers in the case of a corporation or the partners or members in the case of a partnership, association or limited liability company, any shareholders or members holding directly or indirectly ten percent (10%) or more of the voting stock, voting securities or voting interest of the applicant and any other person who directly or indirectly exercises control or influence over the affairs of the applicant;

(d) Audited annual financial statements or reports for the two (2) most recent fiscal years that ~~prove~~ demonstrate that the applicant has a positive net worth. If the applicant has been in existence for less than two (2) fiscal years, the uniform application shall include financial statements or reports, certified by an at least two (2) officers, owners or directors of the applicant and prepared in accordance with GAAP, for any completed fiscal years and for any month during the current fiscal year for which such financial statements or reports have been completed. An audited annual financial report prepared on a consolidated basis shall include a columnar consolidating or combining worksheet that shall be filed with the report and include the following:

(i) Amounts shown on the consolidated audited financial report shall be shown on the worksheet;

(ii) Amounts for each entity shall be stated separately; and

(iii) Explanations of consolidating and eliminating entries shall be included.

The applicant shall also include such other information as the director may require in order to review the current financial condition of the applicant;

(e) In lieu of submitting audited financial statements, and upon written application by an applicant and good cause shown, the director may grant a hardship exemption from filing audited financial statements and allow the submission of unaudited financial statements. Acceptable formats for unaudited financial statements, which shall include notes, are:

(i) Reports compiled or reviewed by a certified public accountant; or

(ii) Internal financial reports prepared in accordance with GAAP, certified by at least two (2) officers, owners or directors of the administrator.

If unaudited financial statements are submitted, the applicant must also secure and maintain a surety bond in a form prescribed by the

director for the use and benefit of the director to be held in trust for the benefit and protection of covered persons and any insurer or self-funded plan against loss by reason of acts of fraud or dishonesty, for the greater of ten percent (10%) of funds handled for the benefit of Idaho residents or twenty thousand dollars (\$20,000). Administrators of self-funded plans in Idaho are subject to the mandatory surety bond requirement found in subsection (8) of this section, regardless of whether they file audited or unaudited financial reports;

(f) A statement describing the business plan, including information on staffing levels and activities, proposed in this state and nationwide. The plan shall provide details setting forth the applicant's capability for providing a sufficient number of experienced and qualified personnel in the areas of claims processing, recordkeeping and underwriting;

(fg) The license application fee as provided for by rule; and

(gh) Such other pertinent information as may be required by the director.

(3) An administrator licensed or applying for licensure under the provisions of this section shall make available for inspection by the director, copies of all contracts with insurers or other persons utilizing the services of the administrator.

(4) An administrator licensed or applying for licensure under the provisions of this section shall produce its accounts, records and files for examination, and make its officers available to give information with respect to its affairs, as often as reasonably required by the director.

(5) The director may refuse to issue a license if the director determines that the ~~administrator~~ applicant or any individual responsible for the conduct of affairs of the ~~administrator~~ applicant is not competent, trustworthy, financially responsible or of good personal and business reputation, or has had an insurance or an administrator certificate of authority or license denied or revoked for cause by any jurisdiction, or if the director determines that any of the grounds set forth in section 41-915, Idaho Code, exist with respect to the ~~administrator~~ applicant.

(6) A license issued under this section shall remain valid, unless surrendered, suspended or revoked by the director, for so long as the administrator continues in business in this state and remains in compliance with the provisions of this chapter and any applicable rules.

(7) An administrator licensed or applying for licensure under the provisions of this section shall immediately notify the director of any material change in its ownership, control or other fact or circumstance affecting its qualification for a license in this state.

(8) An administrator licensed or applying for a home state license that administers or will administer self-funded health plans subject to regulation under chapter 40 or 41, title 41, Idaho Code, shall maintain a surety bond in a form prescribed by the director for the use and benefit of the director to be held in trust for the benefit and protection of covered persons and the any insurer or insurers self-funded plan against loss by reason of acts of fraud or dishonesty. The bond shall be in the greater of the following amounts:

(a) One hundred thousand dollars (\$100,000); or

(b) An amount equal to the greater of ten percent (10%) of the contributions collected by the administrator from self-funded plans subject to regulation under chapters 40 and 41, title 41, Idaho Code, or ten percent (10%) of the benefits paid by such self-funded plans administered during the preceding calendar year. If the administrator did not administer any self-funded plans subject to regulation under chapter 40 or 41, title 41, Idaho Code, during the preceding calendar year, the bond shall be in an amount equal to ten percent (10%) of the contributions projected to be received by the administrator from such self-funded plans during the next calendar year.

SECTION 2. That Section 41-914, Idaho Code, be, and the same is hereby amended to read as follows:

41-914. ANNUAL REPORT. (1) Each administrator licensed under the provisions of this chapter shall file an annual report for the preceding calendar year with the director on or before July 1 of each year, or within such extension of time as the director for good cause may grant. The annual report shall include:

(a) An audited financial statement performed attested to by an independent certified public accountant. An audited annual financial report prepared on a consolidated basis shall include a columnar consolidating or combining worksheet that shall be filed with the report and include the following:

(ai) Amounts shown on the consolidated audited financial report shall be shown on the worksheet;

(bii) Amounts for each entity shall be stated separately; and

(eiii) Explanations of consolidating and eliminating entries shall be included.

(b) In lieu of submitting an audited financial statement, and upon written application by an administrator and good cause shown, the director may grant a hardship exemption from filing audited financial statements and allow the submission of unaudited financial statements. Acceptable formats for unaudited financial statements, which shall include notes, are:

(i) Reports compiled or reviewed by a certified public accountant; or

(ii) Internal financial reports prepared in accordance with GAAP, certified by at least two (2) officers, owners or directors of the administrator.

If unaudited financial statements are submitted, the administrator must secure and maintain a surety bond in a form prescribed by the director for the use and benefit of the director to be held in trust for the benefit and protection of covered persons and any insurer or self-funded plan against loss by reason of acts of fraud or dishonesty, for the greater of ten percent (10%) of funds handled for the benefit of Idaho residents or twenty thousand dollars (\$20,000).

(2) The annual report shall be in the form and contain such matters as the director prescribes and shall be verified by at least two (2) officers, owners or directors of the administrator.

(23) The annual report shall include the complete names and addresses of all insurers and for self-funded plans, all employers and trusts, with which the administrator had agreements during the preceding fiscal year. The report shall also include the number of Idaho residents covered by each of the plans.

Approved March 27, 2012.

CHAPTER 157
(H.B. No. 421)

AN ACT

RELATING TO ORDERS AND NOTICES OF THE DIRECTOR OF THE DEPARTMENT OF INSURANCE; AMENDING SECTION 41-212, IDAHO CODE, TO CLARIFY THE METHODS BY WHICH SERVICE OF ORDERS AND NOTICES MAY BE MADE AND WHEN SAID SERVICE IS COMPLETE AND TO PROVIDE FOR ELECTRONIC SERVICE WHERE AGREED TO BY PARTIES IN CONTESTED CASES.

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

SECTION 1. That Section 41-212, Idaho Code, be, and the same is hereby amended to read as follows:

41-212. ORDERS, NOTICES. (1) Orders and notices of the director shall be effective only when in writing signed by him or by his authority.

(2) Every such order shall state its effective date, and shall concisely state:

(a) Its intent or purpose.

(b) The grounds on which based.

(c) The provisions of this code pursuant to which action is taken or proposed to be taken; but failure to so designate a particular provision shall not deprive the director of the right to rely thereon.

(3) Except as may be provided in this code respecting particular procedures, an order or notice may be given by delivery to:

(a) Personal service upon the person to be ordered or notified or by;

(b) Mmailing it, postage prepaid, by regular United States mail, or by certified mail, return receipt requested, addressed to him the person at his residence or principal place of business as last of record in the department. Notice so mailed shall be deemed to have been given when deposited in a letter depository of a United States post office; or

(c) Where a party has appeared in a contested case or has not yet appeared but has consented or agreed in writing to service by facsimile transmission (FAX) or e-mail as an alternative to personal service or service by mail, such orders or notices may be served by FAX or by e-mail in lieu of service by mail or personal service.

(4) Service of orders and notices is complete when a copy is personally served upon the person to be served, or when a copy properly addressed and postage prepaid is deposited in the United States mail or the statehouse mail, if the person is a state employee or state agency, or when there is an electronic verification that a FAX or an e-mail has been sent.

Approved March 27, 2012.

CHAPTER 158
(H.B. No. 422)

AN ACT

RELATING TO FEES AND TAXES; AMENDING SECTION 41-406, IDAHO CODE, TO REMOVE THE REQUIREMENT OF CERTIFIED REPORTING TO THE STATE TREASURER.

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

SECTION 1. That Section 41-406, Idaho Code, be, and the same is hereby amended to read as follows:

41-406. DEPOSIT AND REPORT OF FEES, LICENSES AND TAXES. (1) The director shall transmit all taxes, fines and penalties collected by him to the state treasurer as provided under section 59-1014, Idaho Code. The director shall file with the state controller a statement of each deposit thus made. All such funds received shall be deposited into the department of insurance suspense account.

Such funds shall be distributed as follows:

(a) The director may deposit up to twenty percent (20%) of the funds received in the insurance refund account which is hereby created for the purpose of repaying overpayments of any taxes, fines, and penalties or other erroneous receipts. There is hereby appropriated out of the insurance refund account so much thereof as shall be necessary for the payment of refunds. Any unencumbered balance remaining in the

insurance refund account on June 30 of each and every year in excess of forty thousand dollars (\$40,000) shall be transferred to the general fund and the state controller is hereby authorized and directed on such dates to make such transfers unless the board of examiners, which is hereby authorized to do so, changes the date of transfer or sum to be transferred.

(b) That portion of the premium tax, payable to the public employee retirement fund as provided in section 59-1394, Idaho Code, shall be distributed to that fund.

(c) That portion of the premium tax necessary to cover administrative costs incurred by the department in placing insurance companies or any other insurance entities into receivership or under administrative supervision, and such costs cannot be satisfied from the assets of these companies or entities, shall be distributed to the insurance insolvency administrative fund which is hereby created. There is hereby appropriated out of the insurance insolvency administrative fund so much thereof as shall be necessary, but not to exceed two hundred thousand dollars (\$200,000) in any one (1) fiscal year, for the payment of the department's administrative expenses incurred in carrying out such receiverships or supervision. A balance of one hundred thousand dollars (\$100,000) shall be maintained in this fund on June 30 of each year.

(d) After all other deductions authorized in this section have been made, if the premium tax remaining exceeds forty-five million dollars (\$45,000,000), one-fourth (1/4) of such excess is hereby appropriated and shall be paid to the Idaho high risk individual reinsurance pool established in chapter 55, title 41, Idaho Code, and one-fourth (1/4) of such excess above fifty-five million dollars (\$55,000,000) is hereby appropriated and shall be paid to the Idaho health insurance access card fund, established in section 56-242, Idaho Code, with eighty percent (80%) of such moneys to be appropriated to the CHIP Plan B subaccount and the children's access card program subaccount and twenty percent (20%) of such moneys, not to exceed one million two hundred thousand dollars (\$1,200,000) per year, to be appropriated to the small business health insurance pilot program subaccount.

(e) The balance of the premium tax, fines and penalties shall be distributed to the general fund of the state of Idaho.

(f) All moneys received for fees, licenses and miscellaneous charges collected shall be distributed to the insurance administrative account.

(2) The director shall make and file with the state controller an itemized statement of the fees, licenses, taxes, fines and penalties collected by him during the preceding month, ~~and shall deliver a certified copy of the statement to the state treasurer.~~

Approved March 27, 2012.

CHAPTER 159
(H.B. No. 448)

AN ACT

RELATING TO FEES; AMENDING SECTION 31-3201B, IDAHO CODE, TO INCREASE A CERTAIN FEE FOR PEACE OFFICERS STANDARDS AND TRAINING PURPOSES.

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

SECTION 1. That Section 31-3201B, Idaho Code, be, and the same is hereby amended to read as follows:

31-3201B. PEACE OFFICERS STANDARDS AND TRAINING -- FEE. The court shall charge a fee of ~~ten~~ fifteen dollars (\$105.00) for peace officers standards and training purposes to be paid by each person found guilty of any felony or misdemeanor, or found to have committed an infraction or any minor traffic, conservation or ordinance violation, except for cars unlawfully left or parked or when the court orders such fee waived because the person is indigent and unable to pay such fee; provided, however, that the judge or magistrate may in his discretion consolidate separate nonmoving traffic offenses into one (1) offense for purposes of assessing such fee. Such fees shall be in addition to all other fines and fees levied. Such fees shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the peace officers standards and training fund.

Approved March 27, 2012.

CHAPTER 160

(H.B. No. 450, As Amended in the Senate)

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AMENDING SECTION 23-940, IDAHO CODE, TO CREATE THE ALCOHOL BEVERAGE CONTROL FUND, TO PROVIDE MONEYS FOR THE ALCOHOL BEVERAGE CONTROL FUND, TO PROVIDE THAT EXPENDITURES FROM SUCH FUND SHALL BE SUBJECT TO LEGISLATIVE APPROPRIATION, TO PROVIDE FOR THE TRANSFER OF CERTAIN EXCESS MONEYS TO THE GENERAL FUND AND TO SPECIFY THAT OTHER CERTAIN MONEYS SHALL BE DEPOSITED IN THE GENERAL FUND; AMENDING CHAPTER 10, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-1025, IDAHO CODE, TO PROVIDE THAT CERTAIN MONEYS COLLECTED BY THE DIRECTOR OF THE IDAHO STATE POLICE SHALL BE DEPOSITED IN THE ALCOHOL BEVERAGE CONTROL FUND AND OTHER CERTAIN MONEYS SHALL BE DEPOSITED IN THE GENERAL FUND; AND AMENDING CHAPTER 13, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-1324, IDAHO CODE, TO PROVIDE THAT CERTAIN MONEYS COLLECTED BY THE DIRECTOR OF THE IDAHO STATE POLICE SHALL BE DEPOSITED IN THE ALCOHOL BEVERAGE CONTROL FUND AND OTHER CERTAIN MONEYS SHALL BE DEPOSITED IN THE GENERAL FUND.

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

SECTION 1. That Section 23-940, Idaho Code, be, and the same is hereby amended to read as follows:

23-940. DISPOSITION OF FUNDS ALCOHOL BEVERAGE CONTROL FUND. (1) There is hereby created in the state treasury the alcohol beverage control fund. All moneys from license and transfer fees that are collected by the director under this act pursuant to the provisions of this chapter shall be paid over to the state treasurer and placed to the credit of the general for deposit in the alcohol beverage control fund. Expenditures of moneys in the fund shall be subject to legislative appropriation for the use of the Idaho state police alcohol beverage control bureau in carrying out the provisions of title 23, Idaho Code, and the rules promulgated by the director thereunder. At the beginning of each fiscal year, those moneys in the alcohol beverage control fund that exceed two hundred percent (200%) of that fiscal year appropriation, as certified by the state treasurer, shall be transferred to the general fund.

(2) All other moneys collected by the director pursuant to the provisions of this chapter shall be paid over to the state treasurer for deposit in the general fund.

SECTION 2. That Chapter 10, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23-1025, Idaho Code, and to read as follows:

23-1025. LICENSE AND TRANSFER FEES -- ALCOHOL BEVERAGE CONTROL FUND. All moneys from license and transfer fees that are collected by the director pursuant to the provisions of this chapter shall be paid over to the state treasurer for deposit in the alcohol beverage control fund created in section 23-940, Idaho Code. All other moneys collected by the director pursuant to the provisions of this chapter shall be paid over to the state treasurer for deposit in the general fund.

SECTION 3. That Chapter 13, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23-1324, Idaho Code, and to read as follows:

23-1324. LICENSE AND TRANSFER FEES -- ALCOHOL BEVERAGE CONTROL FUND. All moneys from license and transfer fees that are collected by the director pursuant to the provisions of this chapter shall be paid over to the state treasurer for deposit in the alcohol beverage control fund created in section 23-940, Idaho Code. All other moneys collected by the director pursuant to the provisions of this chapter shall be paid over to the state treasurer for deposit in the general fund.

Approved March 27, 2012.

CHAPTER 161

(H.B. No. 457, As Amended in the Senate)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-405, IDAHO CODE, TO PROVIDE FOR THE DESIGNATION OF CONTROLLED HUNT TAGS AND CONTROLLED HUNT PERMITS TO CERTAIN MINOR CHILDREN OR GRANDCHILDREN BY PARENTS AND GRANDPARENTS AND TO PROVIDE THAT SUCH DESIGNATED TAGS AND PERMITS CANNOT BE SOLD.

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

SECTION 1. That Section 36-405, Idaho Code, be, and the same is hereby amended to read as follows:

36-405. APPLICATION FOR LICENSE -- DUPLICATE LICENSE -- UNLAWFUL PURCHASE, POSSESSION, AND USE OF LICENSE. (a) Application Required.

1. Any person making application for a senior resident license, or resident license shall provide his Idaho driver's license number as proof of residence, or in the case of nondrivers, other suitable proof of residency, and state the class of license applied for, the name of the applicant, the age of the applicant, his date of birth, his length of residence, his current address, and such other information as may be required by the director.

2. Any person making application for a duplicate license shall state the type and class of license originally purchased and such other information as may be required by the director.

3. No person shall willfully make a false statement as to:

(A) Name, age, his date of birth, length of residence or current address when such statement is made for the purpose of obtaining any license.

(B) Type and class of original license purchased when applying for a duplicate license.

(b) Loss of License -- New One Required. In case of loss of a license, a new one shall be required to entitle the person who lost the same to hunt, fish or trap. Such person may upon application:

1. Purchase a new license at the regular fee; or
2. Replace a lost license with a duplicate license for which a fee as specified in section 36-416, Idaho Code, shall be charged.
3. When a duplicate license has been issued the original license shall become null and void.

(c) Unlawful Purchase, Possession and Use of License.

1. Every person buying a license must buy a license of the proper type or class according to his residence and age. No person shall purchase or possess a license of the wrong class and such license shall be void and of no effect from the date of issuance.

2. No person shall:

(A) Acquire more than one (1) regular controlled hunt permit per species or more tags per species than the commission has set a bag limit for that species except as provided in subsection (b) of this section or to have said permits or tags in his possession.

(B) Transfer any fishing, hunting, or trapping license to any other person or for any person to make use of such license issued to any other person with the exception of a parent or grandparent designating any controlled hunt tag or controlled hunt permit to his or her minor child or grandchild as prescribed by rules of the commission. A controlled hunt tag or controlled hunt permit can be designated only to a minor child with a valid hunting license or one who is participating in a mentored hunting program as prescribed by rules of the commission. A controlled hunt tag or controlled hunt permit designated to a minor child cannot be sold.

Approved March 27, 2012.

CHAPTER 162
(H.B. No. 490)

AN ACT

RELATING TO THE STATE SUNSHINE LAW; AMENDING SECTION 31-2012, IDAHO CODE, TO PROVIDE APPLICATION OF THE CAMPAIGN REPORTING LAW TO COUNTYWIDE MEASURES INCLUDING COUNTYWIDE RECALL ELECTIONS; AMENDING SECTION 50-420, IDAHO CODE, TO PROVIDE APPLICATION OF THE CAMPAIGN REPORTING LAW TO CITYWIDE RECALL ELECTIONS; AMENDING SECTION 67-6602, IDAHO CODE, TO FURTHER DEFINE THE TERM "MEASURE" AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 67-6610A, IDAHO CODE, TO PROVIDE THAT RECALL ELECTIONS SHALL BE TREATED THE SAME AS GENERAL ELECTIONS FOR CONTRIBUTION LIMITS.

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

SECTION 1. That Section 31-2012, Idaho Code, be, and the same is hereby amended to read as follows:

31-2012. APPLICATION OF CAMPAIGN REPORTING LAW TO CERTAIN COUNTY ELECTIONS. The provisions of sections 67-6601 through 67-6616 and 67-6623 through 67-6630, Idaho Code, insofar as they relate to the reporting of campaign contributions and expenditures are hereby made applicable to all elections for county elected officers and countywide measures including countywide recalls in counties of the state, except that the clerk of the district court shall stand in place of the secretary of state.

SECTION 2. That Section 50-420, Idaho Code, be, and the same is hereby amended to read as follows:

50-420. APPLICATION OF CAMPAIGN REPORTING LAW TO ELECTIONS IN CERTAIN CITIES. The provisions of sections 67-6601 through 67-6616 and 67-6623 through 67-6630, Idaho Code, are hereby made applicable to all elections for mayor, councilman and citywide measures, including citywide recalls, in cities of five thousand (5,000) or more population, except that the city clerk shall stand in place of the secretary of state, and the city attorney shall stand in place of the attorney general.

SECTION 3. That Section 67-6602, Idaho Code, be, and the same is hereby amended to read as follows:

67-6602. DEFINITIONS. As used in this chapter, the following terms have the following meanings:

(a) "Candidate" means an individual who has taken affirmative action to seek nomination or election to public office. An individual shall be deemed to have taken affirmative action to seek such nomination or election to public office when he first:

(1) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his candidacy for office; or

(2) Announces publicly or files for office.

(3) For purposes of this chapter, an incumbent shall be presumed to be a candidate in the subsequent election for his or her office. Contributions received by an incumbent candidate shall not be in excess of the prescribed contribution limits for the subsequent election by which the incumbent candidate's name would first appear on the ballot. An incumbent shall no longer be a candidate for his or her office after the deadline for the filing of a declaration of candidacy to first appear on the ballot for that office has expired.

(b) "Compensation" includes any advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money or anything of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to do any of the foregoing, for services rendered or to be rendered, but does not include reimbursement of expenses if such reimbursement does not exceed the amount actually expended for such expenses and is substantiated by an itemization of such expenses.

(c) "Contribution" includes any advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, subscription or transfer of money or anything of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make a contribution, in support of or in opposition to any candidate, political committee or measure. Such term also includes personal funds or other property of a candidate or members of his household expended or transferred to cover expenditures incurred in support of such candidate but does not include personal funds used to pay the candidate filing fee. Such term also includes the rendering of personal and professional services for less than full consideration, but does not include ordinary home hospitality or the rendering of "part-time" personal services of the sort commonly performed by volunteer campaign workers or advisors or incidental expenses not in excess of twenty-five dollars (\$25.00) personally paid for by any volunteer campaign worker. "Part-time" services for the purposes of this definition, means services in addition to regular full-time employment, or, in the case of an unemployed person or persons engaged in part-time employment, services rendered without compensation or reimbursement of expenses from any source other than the candidate or political committee for whom such services are rendered. For the purposes of this act, contributions,

other than money or its equivalents shall be deemed to have a money value equivalent to the fair market value of the contribution.

(d) "Election" means any general, special or primary election.

(e) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a measure.

(f) (1) "Electioneering communication" means any communication broadcast by television or radio, printed in a newspaper or on a billboard, directly mailed or delivered by hand to personal residences, or telephone calls made to personal residences, or otherwise distributed that:

(i) Unambiguously refers to any candidate; and

(ii) Is broadcasted, printed, mailed, delivered, made or distributed within thirty (30) days before a primary election or sixty (60) days before a general election; and

(iii) Is broadcasted to, printed in a newspaper, distributed to, mailed to or delivered by hand to, telephone calls made to, or otherwise distributed to an audience that includes members of the electorate for such public office.

(2) "Electioneering communication" does not include:

(i) Any news articles, editorial endorsements, opinion or commentary, writings, or letter to the editor printed in a newspaper, magazine, or other periodical not owned or controlled by a candidate or political party;

(ii) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate or political party;

(iii) Any communication by persons made in the regular course and scope of their business or any communication made by a membership organization solely to members of such organization and their families;

(iv) Any communication which refers to any candidate only as part of the popular name of a bill or statute;

(v) A communication which constitutes an expenditure or an independent expenditure under this chapter.

(g) "Executive official" means:

(1) The governor, lieutenant governor, secretary of state, state controller, state treasurer, attorney general, superintendent of public instruction and any deputy or staff member of one (1) of those individuals who, within the course and scope of his or her employment, is directly involved in major policy influencing decisions for the office;

(2) A state department or agency director, deputy director, division administrator or bureau chief as established and enumerated in sections 67-2402 and 67-2406, Idaho Code;

(3) The membership and the executive or chief administrative officer of any board or commission that is authorized to make rules or conduct rulemaking activities pursuant to section 67-5201, Idaho Code;

(4) The membership and the executive or chief administrative officer of any board or commission that governs any of the state departments enumerated in section 67-2402, Idaho Code, not including public school districts;

(5) The membership and the executive or chief administrative officer of the Idaho public utilities commission, the Idaho industrial commission, and the Idaho state tax commission; and

(6) The members of the governing board of the state insurance fund, and the members of the governing board and the executive or chief administrative officer of the Idaho housing and finance association, the Idaho energy resources authority, and the Idaho state building authority.

(h) "Expenditure" includes any payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value,

and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term "expenditure" also includes a promise to pay, a payment or a transfer of anything of value in exchange for goods, services, property, facilities or anything of value for the purpose of assisting, benefiting or honoring any public official or candidate, or assisting in furthering or opposing any election campaign.

(i) "Independent expenditure" means any expenditure by a person for a communication expressly advocating the election, passage or defeat of a clearly identified candidate or measure that is not made with the cooperation or with the prior consent of, or in consultation with, or at the consent of, or in consultation with, or at the request of a suggestion of, a candidate or any agent or authorized committee of the candidate or political committee supporting or opposing a measure. As used in this subsection, "expressly advocating" means any communication containing a message advocating election, passage or defeat including, but not limited to, the name of the candidate or measure, or expression such as "vote for," "elect," "support," "cast your ballot for," "vote against," "defeat" or "reject."

(j) "Lobby" and "lobbying" each means attempting through contacts with, or causing others to make contact with, members of the legislature or legislative committees or an executive official, to influence the approval, modification or rejection of any legislation by the legislature of the state of Idaho or any committee thereof or by the governor or to develop or maintain relationships with, promote goodwill with, or entertain members of the legislature or executive officials. "Lobby" and "lobbying" shall also mean communicating with an executive official for the purpose of influencing the consideration, amendment, adoption or rejection of any rule or rulemaking as defined in section 67-5201, Idaho Code, or any ratemaking decision, procurement, contract, bid or bid process, financial services agreement, or bond issue. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization; and provided that neither "lobby" nor "lobbying" includes communicating with an executive official for the purpose of carrying out ongoing negotiations following the award of a bid or a contract, communications involving ongoing legal work and negotiations conducted by and with attorneys for executive agencies, interactions between parties in litigation or other contested matters, or communications among and between members of the legislature and executive officials and their employees, or by state employees while acting in their official capacity or within the course and scope of their employment.

(k) "Lobbyist" includes any person who lobbies.

(l) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed, directly or indirectly, and all persons by whom he is compensated for acting as a lobbyist.

(m) "Measure" means any proposal, to be voted statewide, submitted to the people for their approval or rejection at an election, including any initiative, referendum, recall election for statewide or legislative district offices, or revision of or amendment to the state constitution. An initiative or referendum proposal shall be deemed a measure when the attorney general reviews it and gives it a ballot title. A recall shall be deemed a measure upon approval of the recall petition as to form pursuant to section 34-1704, Idaho Code.

(n) "Nonbusiness entity" means any group (of two (2) or more individuals), corporation, association, firm, partnership, committee, club or other organization which:

(1) Does not have as its principal purpose the conduct of business activities for profit; and

(2) Received during the preceding calendar year contributions, gifts or membership fees, which in the aggregate exceeded ten percent (10%) of its total receipts for such year.

(o) "Person" means an individual, corporation, association, firm, partnership, committee, political party, club or other organization or group of persons.

(p) "Political committee" means:

(1) Any person specifically designated to support or oppose any candidate or measure; or

(2) Any person who receives contributions and makes expenditures in an amount exceeding five hundred dollars (\$500) in any calendar year for the purpose of supporting or opposing one (1) or more candidates or measures. Any entity registered with the federal election commission shall not be considered a political committee for purposes of this chapter.

(3) A county, district or regional committee of a recognized political party shall not be considered a political committee for the purposes of this chapter unless such party committee has expenditures exceeding five thousand dollars (\$5,000) in a calendar year.

(q) "Political treasurer" means an individual appointed by a candidate or political committee as provided in section 67-6603, Idaho Code.

(r) "Public office" means any state office or position, state senator, state representative, and judge of the district court that is filled by election.

SECTION 4. That Section 67-6610A, Idaho Code, be, and the same is hereby amended to read as follows:

67-6610A. LIMITATIONS ON CONTRIBUTIONS. (1) Except as provided in subsection (2) of this section, aggregate contributions for a primary election or a general election made by a corporation, political committee, other recognized legal entity or an individual, other than the candidate, to a candidate for the state legislature, and political committees organized on the candidate's behalf shall be limited to an amount not to exceed one thousand dollars (\$1,000) for the primary election and an amount not to exceed one thousand dollars (\$1,000) for the general election. Aggregate contributions for a primary election or a general election by a corporation, political committee, other recognized legal entity or an individual, other than the candidate, to a candidate for statewide office and political committees organized on the candidate's behalf shall be limited to an amount not to exceed five thousand dollars (\$5,000) for the primary election and an amount not to exceed five thousand dollars (\$5,000) for the general election.

(2) Aggregate contributions for a primary election or for a general election made by a county central committee or by the state central committee of the political parties qualified under section 34-501, Idaho Code, to a candidate for the state legislature, and political committees organized on the candidate's behalf shall be limited to an amount not to exceed two thousand dollars (\$2,000) for the primary election and an amount not to exceed two thousand dollars (\$2,000) for the general election. Aggregate contributions for the primary election or the general election by the state central committee of the political parties qualified under section 34-501, Idaho Code, to a candidate for statewide office and political committees organized on the candidate's behalf shall be limited to an amount not to exceed ten thousand dollars (\$10,000) for the primary election and an amount not to exceed ten thousand dollars (\$10,000) for the general election.

(3) For purposes of this section "statewide office" shall mean an office in state government which shall appear on the primary or general election ballot throughout the state.

(4) Recall elections, for purposes of this section, shall be treated the same as general elections for contribution limits.

(5) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. A contribution of this kind shall be reported as an in-kind contribution at its fair market value and counts toward any applicable contribution limit of the contributor. Contributions shall not include the personal services of volunteers.

(56) The contribution limits for the state legislature shall apply to judicial district offices, city offices and county offices regulated by this chapter.

(67) For the purposes of contribution limits, the following apply:

(a) A contribution by a political committee with funds that have all been contributed by one (1) person who exercises exclusive control over the distribution of the funds of the political committee is a contribution by the controlling person.

(b) All contributions made by a person or political committee whose contribution or expenditure activity is financed, maintained or controlled by a trade association, labor union or collective bargaining organization shall be considered a contribution from such trade association, labor union or collective bargaining organization.

(c) Two (2) or more entities are treated as a single entity if the entities:

- (i) Share the majority of members on their board of directors;
- (ii) Share two (2) or more officers;
- (iii) Are owned or controlled by the same majority shareholder or shareholders or persons;
- (iv) Are in a parent-subsidiary relationship; or
- (v) Have bylaws so stating.

(78) 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 the remaining portions of this section.

Approved March 27, 2012.

CHAPTER 163
(H.B. No. 503)

AN ACT

RELATING TO PRESCRIPTION DRUG ORDERS; AMENDING SECTION 54-1733, IDAHO CODE, TO PROVIDE FOR AN EXCEPTION, TO ESTABLISH PROVISIONS RELATING TO CIRCUMSTANCES WHERE A PRESCRIBER MAY PERFORM CERTAIN ACTIVITIES FOR A PATIENT WITH WHOM THE PRESCRIBER DOES NOT HAVE A PRESCRIBER-PATIENT RELATIONSHIP AND TO ESTABLISH PROVISIONS RELATING TO UNPROFESSIONAL CONDUCT.

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

SECTION 1. That Section 54-1733, Idaho Code, be, and the same is hereby amended to read as follows:

54-1733. VALIDITY OF PRESCRIPTION DRUG ORDERS. (1) Except as provided in subsection (4) of this section, a prescription drug order for a legend drug is not valid unless it is issued for a legitimate medical purpose arising from a prescriber-patient relationship which includes a documented patient evaluation adequate to establish diagnoses and identify underlying conditions and/or contraindications to the treatment. Treatment, including

issuing a prescription drug order, based solely on an online questionnaire or consultation outside of an ongoing clinical relationship does not constitute a legitimate medical purpose. A prescription drug order may be issued either:

- (a) By a practitioner acting in the usual course of his profession; or
- (b) By a physician, dentist, veterinarian, scientific investigator or other person, other than a pharmacist, who is licensed in a jurisdiction other than the state of Idaho and is permitted by such license to dispense, conduct research with respect to or administer the prescribed legend drugs in the course of his professional practice or research in such jurisdiction, so long as the individual is acting within the jurisdiction, scope and authority of his license when issuing the prescription drug order.

(c) The prescription drug order may be signed and sent electronically pursuant to chapter 50, title 28, Idaho Code.

(d) Transmission of prescription drug order. In addition to delivery of the original signed written prescription drug order to a licensed pharmacy:

(i) A prescription drug order that has been signed by the practitioner may be received by a licensed pharmacy for dispensing purposes through a facsimile transmission from the prescribing practitioner or the practitioner's agent, or from an institutional facility for a patient or resident in such facility;

(ii) A prescription drug order may also be received by a licensed pharmacist verbally from the practitioner, the practitioner's agent or from a licensed practical nurse or licensed professional nurse in an institutional facility for a patient or resident in such facility;

(iii) A prescription drug order received verbally from the practitioner by a licensed practical nurse or licensed professional nurse in a licensed institutional facility for a patient or resident in such facility may also be sent by facsimile transmission from the institutional facility to a licensed pharmacy for dispensing purposes provided the transmitted document includes the name of the prescriber issuing the prescription drug order, the name of the nurse who transcribed the order and the name of the person who sent the facsimile.

(e) In the event that there are no refills remaining on an existing prescription drug order, and the pharmacist requests a new prescription drug order from the practitioner, the practitioner's agent, after obtaining practitioner authorization, may sign and return the request via facsimile so long as:

(i) The request is generated from the pharmacy;

(ii) The request is for medication that the patient is currently taking;

(iii) There are no changes to the type of drug, its strength or directions for the continuation of therapy;

(iv) The practitioner's agent's transmission is received via facsimile from the practitioner's office; and

(v) The request, which is subsequently transmitted back to the requesting pharmacy by the practitioner's agent, contains all components of a valid prescription drug order.

(2) It is unlawful for a practitioner to knowingly issue an invalid prescription drug order for a legend drug.

(3) It is unlawful for a pharmacist or veterinarian to knowingly fill an invalid prescription drug order for a legend drug.

(4) A prescriber who is otherwise authorized to perform any of the activities listed in this subsection may prescribe or perform any of the fol-

lowing activities for a patient with whom the prescriber does not have a prescriber-patient relationship under the following circumstances:

- (a) Writing initial admission orders for a newly hospitalized patient;
- (b) Writing a prescription for a patient of another prescriber for whom the prescriber is taking call;
- (c) Writing a prescription for a patient examined by a physician assistant, advanced practice registered nurse or other licensed practitioner with whom the prescriber has a supervisory or collaborative relationship;
- (d) Writing a prescription for medication on a short-term basis for a new patient prior to the patient's first appointment;
- (e) In emergency situations where life or health of the patient is in imminent danger;
- (f) In emergencies that constitute an immediate threat to the public health including, but not limited to, empiric treatment or prophylaxis to prevent or control an infectious disease outbreak;
- (g) If a prescriber makes a diagnosis of a sexually transmitted disease in a patient, the prescriber may prescribe or dispense antibiotics to the infected patient's named sexual partner or partners for treatment of the sexually transmitted disease as recommended by the most current centers for disease control and prevention (CDC) guidelines.

(5) Prescribing drugs to individuals without a prescriber-patient relationship and not in accordance with this section shall be unprofessional conduct and the prescriber shall be subject to discipline according to the provisions of the Idaho Code chapter pursuant to which the prescriber is licensed, certified or registered.

Approved March 27, 2012.

CHAPTER 164

(H.B. No. 511, As Amended, As Amended in the Senate)

AN ACT

RELATING TO AERONAUTICS; AMENDING CHAPTER 5, TITLE 21, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 21-515A, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO THE MARKING AND LIGHTING OF CERTAIN TOWERS, TO PROVIDE FOR DEFINITIONS, TO PROVIDE FOR AN EXCEPTION AND TO PROVIDE FOR A MISDEMEANOR.

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

SECTION 1. That Chapter 5, 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 21-515A, Idaho Code, and to read as follows:

21-515A. HAZARDS TO AIR FLIGHT -- STANDARDS FOR GUYED TOWERS. (1) Any temporary or permanent guyed tower fifty (50) feet or more in height that is located outside the boundaries of an incorporated city or town on land that is primarily rural or undeveloped or used for agricultural purposes, or that is primarily desert, and where such guyed tower's appearance is not otherwise governed by state or federal law, rule or regulation, shall be lighted, marked and painted or otherwise constructed to be visible in clear air during daylight hours from a distance of not less than two thousand (2,000) feet. Guyed towers shall be required to be in accordance with the following:

- (a) Guyed towers shall be painted in seven equal alternating bands of aviation orange and white. Such alternating bands shall begin with orange at the top of the tower and end with orange at the base.

(b) Guyed towers shall have a flashing light at the top of the tower. Such light shall be visible in clear air, with the naked eye, from a distance of two thousand (2,000) feet when flashing. Such light shall also be visible with night vision goggles.

(c) The surface area under the footprint of the tower and six (6) feet beyond the outer tower anchors shall have a contrasting appearance with any surrounding vegetation.

(d) Two (2) marker balls shall be attached to and evenly spaced on each of the outside guy wires.

(e) Guyed towers shall have a seven (7) foot long safety sleeve at each anchor point and shall extend from the anchor point along each guy wire attached to the anchor point.

(2) Any guyed tower that was erected prior to the effective date of this act shall be marked as required by the provisions of this section within one (1) year of the effective date of this act. Any guyed tower that is erected on or after the effective date of this act shall be marked as required by the provisions of this section at the time it is erected.

(3) For the purposes of this section, the following terms shall have the following meanings:

(a) "Guyed tower" means a tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself, towers used for military purposes excepted.

(b) "Height" means the distance measured from the original grade at the base of the tower to the highest point of the tower.

(c) "Temporary or permanent guyed tower" means a guyed tower erected and standing for any period of time whatsoever.

(4) This section shall not apply to power poles or structures owned and operated by an electric supplier as defined in section 61-332A(4), Idaho Code, or any structure the primary purpose of which is to support telecommunications equipment.

(5) Any person who violates a provision of this section shall be guilty of a misdemeanor.

Approved March 27, 2012.

CHAPTER 165

(H.B. No. 523, As Amended)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1352A, IDAHO CODE, TO PROVIDE THAT CERTAIN REGISTRATIONS REGARDING ELECTIONS TO BE EXEMPT FROM UNEMPLOYMENT INSURANCE COVERAGE SHALL REMAIN IN EFFECT FOR AT LEAST TWO CONSECUTIVE CALENDAR YEARS, TO PROVIDE AN EFFECTIVE DATE FOR REGISTRATIONS RECEIVED WITHIN A SPECIFIED TIME FRAME AND TO PROVIDE THAT SUCH REGISTRATIONS SHALL REMAIN IN EFFECT FOR AT LEAST TWO CONSECUTIVE CALENDAR YEARS, TO PROVIDE THAT WITH THE EXCEPTION OF SPECIFIED EXEMPTIONS, OTHER EXEMPTIONS SHALL NOT BE RETROACTIVE AND TO PROVIDE FOR REGISTRATIONS REGARDING NEWLY FORMED CORPORATIONS RELATING TO EXEMPTIONS FROM UNEMPLOYMENT INSURANCE COVERAGE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 72-1352A, Idaho Code, be, and the same is hereby amended to read as follows:

72-1352A. CORPORATE OFFICERS -- EXEMPTION FROM COVERAGE -- NOTIFICATION -- REINSTATEMENT. (1) A corporation that is a public company, other than those covered in sections 72-1316A, 72-1322D and 72-1349C, Idaho Code, may elect to exempt from coverage pursuant to this chapter any bona fide corporate officer who is voluntarily elected or voluntarily appointed in accordance with the articles of incorporation or bylaws of the corporation, is a shareholder of the corporation, exercises substantial control in the daily management of the corporation and whose primary responsibilities do not include the performance of manual labor.

(2) A corporation that is not a public company, other than those covered in sections 72-1316A, 72-1322D and 72-1349C, Idaho Code, may elect to exempt from coverage pursuant to this chapter any bona fide corporate officer, without regard to the corporate officer's performance of manual labor, if the corporate officer is a shareholder of the corporation, voluntarily agrees to be exempted from coverage and exercises substantial control in the daily management of the corporation.

(3) For purposes of this section, a "public company" is a corporation that has a class of shares registered with the federal securities and exchange commission pursuant to section 12 or 15 of the Securities and Exchange Act of 1934 or section 8 of the Investment Company Act of 1940, or any successor statute.

(4) To make the election, a corporation with qualifying corporate officers pursuant to subsection (1) or (2) of this section must register with the department each qualifying corporate officer it elects to exempt from coverage. The registration must be in a format prescribed by the department and be signed and dated by the corporate officer being exempted from coverage. Registration forms received and approved by the department on or before December 15 shall become effective the first day of the next calendar year and shall remain in effect for at least two (2) consecutive calendar years. Registration forms received and approved by the department after December 15, 2011, and on or before July 31, 2012, shall become effective January 1, 2012, and shall remain in effect for at least two (2) consecutive calendar years. Except for elections made after December 15, 2011, and on or before July 31, 2012, exemptions from coverage shall not be retroactive and the corporation requesting the exemption shall not be eligible for a refund or credit for contributions paid for corporate officers before the effective date of the exemption.

(5) A newly formed corporation with qualifying corporate officers pursuant to subsections (1) and (2) of this section shall register with the department each corporate officer it elects to exempt within forty-five (45) calendar days after submitting its Idaho business registration form to the department as required by section 72-1337, Idaho Code. The registration must be in a format prescribed by the department and be signed and dated by the corporate officer being exempted from coverage. Registration forms received and approved by the department shall become effective as of the date the Idaho business registration form was submitted to the department and shall remain in effect for at least two (2) consecutive calendar years.

(6) A corporation may elect to reinstate coverage for one (1) or more corporate officers previously exempted pursuant to this section. Reinstatement requires written notice from the corporation to the department in a format prescribed by the department. Reinstatement requests received by the department on or before December 15 shall become effective the first day of the calendar year following the end of the exemption's two (2) year effective date. Coverage shall not be reinstated retroactively.

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

Approved March 27, 2012.

CHAPTER 166
(H.B. No. 532)

AN ACT

RELATING TO THE PEACE OFFICER STANDARDS AND TRAINING COUNCIL; AMENDING CHAPTER 51, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-5118, IDAHO CODE, TO GRANT THE PEACE OFFICER STANDARDS AND TRAINING COUNCIL THE AUTHORITY TO ESTABLISH AND ASSESS CERTAIN FEES, TO REQUIRE THE COUNCIL TO DEPOSIT SUCH FEES INTO A CERTAIN FUND AND TO GRANT THE COUNCIL THE AUTHORITY TO EXPEND MONEYS TO COVER THE COSTS FOR CERTAIN USES.

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

SECTION 1. That Chapter 51, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-5118, Idaho Code, and to read as follows:

19-5118. POWER OF THE COUNCIL TO ESTABLISH AND ASSESS FEES. (1) The council may establish and assess fees for:

- (a) The use of its facilities and equipment by private entities and non-law enforcement institutions;
- (b) The use of its facilities and equipment by law enforcement agencies for purposes other than basic training; and
- (c) Facilitating, arranging, providing or assisting with the training, certification or continuing education requirements of private entities, non-law enforcement institutions and law enforcement agencies.

(2) The council shall deposit assessed fees into the peace officer standards and training fund established in section 19-5116, Idaho Code. The council may expend moneys as deemed necessary to cover the costs for the uses identified in this section.

Approved March 27, 2012.

CHAPTER 167
(H.B. No. 541)

AN ACT

RELATING TO HEALTH CARE ORGANIZATIONS; AMENDING CHAPTER 13, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1392g, IDAHO CODE, TO PROHIBIT ECONOMIC CREDENTIALING OF MEDICAL STAFF MEMBERSHIP IN HEALTH CARE ORGANIZATIONS.

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

SECTION 1. That Chapter 13, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-1392g, Idaho Code, and to read as follows:

39-1392g. MEDICAL STAFF MEMBERSHIP AND PRIVILEGES. (1) Except as specifically provided in subsection (2) of this section, nothing in this section shall in any way change the authority of the governing body of any

health care organization to make such rules, regulations, standards or qualifications for medical staff membership as it, in its discretion, may deem necessary or advisable, or to grant or refuse membership on a medical staff.

(2) An applicant for medical staff membership or privileges in a health care organization that has an organized medical staff, an applicant for reappointment to the medical staff of such health care organization, or a current member of the medical staff of such health care organization shall not be denied medical staff membership or privileges, nor shall membership or privileges be withdrawn, revoked, suspended or limited by such health care organization for the reason that:

(a) The applicant or current member of the medical staff holds an ownership interest in one (1) or more competing health care organizations;

(b) The applicant or current member of the medical staff is affiliated with one (1) or more competing health care organizations; or

(c) The applicant or current member of the medical staff is a competitor of one (1) or more members of the medical staff.

(3) Nothing in this section shall require a health care organization to grant privileges to an applicant for services that are subject to an exclusive contract or not offered in that facility.

(4) Nothing in this section shall be interpreted as changing the privilege, confidentiality, discoverability and admissibility of the information and records granted in section 39-1392b, Idaho Code.

Approved March 27, 2012.

CHAPTER 168
(H.B. No. 558)

AN ACT

RELATING TO RESIDENTIAL CARE PROVISIONAL PERMITS; AMENDING SECTION 54-4211, IDAHO CODE, TO REVISE PROVISIONS RELATING TO WHOM A RESIDENTIAL CARE PROVISIONAL PERMIT MAY BE ISSUED AND TO PROVIDE CODE REFERENCES.

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

SECTION 1. That Section 54-4211, Idaho Code, be, and the same is hereby amended to read as follows:

54-4211. PROVISIONAL PERMITS. (1) Pending issuance of a license, the board may issue a provisional permit for a period not exceeding three (3) months, without an examination to an applicant who files a written application for a provisional permit and who is otherwise qualified ~~but does not and meets~~ the examination requirements of either section 54-4206(2) or (3), Idaho Code, and is applying to fill a vacancy on an emergency basis.

(2) Any individual who holds a valid Idaho nursing home administrator's license and is in good standing according to the provisions of chapter 16, title 54, Idaho Code, may be deemed to meet the requirements for issuance of a residential care facility administrator's license and may be issued one, upon application and payment of appropriate fees.

Approved March 27, 2012.

CHAPTER 169
(H.B. No. 579)

AN ACT

RELATING TO EMPLOYMENT OF RETIRED TEACHERS OR ADMINISTRATORS; REPEALING SECTION 3, CHAPTER 131, LAWS OF 2007, RELATING TO EMPLOYMENT OF CERTAIN RETIREES; AND AMENDING SECTION 59-1356, IDAHO CODE, TO REMOVE A SUNSET PROVISION.

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

SECTION 1. That Section 3, Chapter 131, Laws of 2007, be, and the same is hereby repealed.

SECTION 2. That Section 59-1356, Idaho Code, be, and the same is hereby amended to read as follows:

59-1356. REEMPLOYMENT OF RETIRED MEMBERS. (1) If an early retired member is reemployed with the same employer within ninety (90) days from retiring, or the early retired member is guaranteed reemployment with the same employer the member shall be considered to have continued in the status of an employee and not to have separated from service. Any retirement allowance payments received by the retired member shall be repaid to the system and the retirement shall be negated. The month of last contribution prior to the negated retirement and the month of initial contribution upon return to reemployment shall be considered consecutive months of contributions in the determination of an appropriate salary base period upon subsequent retirement. A retired member is not considered to have separated from service if he continues performing services for the same employer in any capacity including, but not limited to, independent contractor, leased employee, or temporary services.

(2) Except as provided in subsection (3) of this section, when a retired member meets the definition of an employee as defined in section 59-1302(14) (A) (a), Idaho Code, any benefit payable on behalf of such member shall be suspended and any contributions payable by such member under sections 59-1331 through 59-1334, Idaho Code, shall again commence. The suspended benefit, as adjusted pursuant to section 59-1355, Idaho Code, shall resume upon subsequent retirement, along with a separate allowance computed with respect to only that salary and service credited during the period of reemployment. Any death benefit that becomes payable under the suspended benefit shall be payable under section 59-1361(2), Idaho Code. Any death benefit that becomes payable with respect to salary and service accrued during the period of reemployment shall be payable under section 59-1361(3), Idaho Code, if the member dies during the period of reemployment.

(3) If a retired member, who is receiving a benefit that is not reduced under section 59-1346, Idaho Code, and who has been retired for more than six (6) months, again becomes employed as defined in this section and section 59-1302(14) (A) (b), Idaho Code, as a result of being elected to a public office other than an office held prior to retirement, the retired member may elect to continue receiving benefits and not accrue additional service, in which event no contributions shall be made by the member or employer during such reemployment and any benefit payable on behalf of such member shall continue.

(4) If a retired school teacher or administrator, who retired on or after age sixty-two (62) years and is receiving a benefit that is not reduced under section 59-1346, Idaho Code, again becomes an employee as defined in this section and section 59-1302(14), Idaho Code, as a result of returning

to employment with a school district as provided in section 33-1004H, Idaho Code, the retired member may elect to continue receiving benefits and not accrue additional service, in which event no contributions shall be made by the member during such reemployment and any benefit payable on behalf of such member shall continue. However, the school district shall pay the required employer contribution for that employee to the public employee retirement system. ~~After June 30, 2012, this subsection (4) shall no longer be in force and effect and the other provisions of this section shall be applicable to all employment, including the employment of retirees who were employed under section 33-1004H, Idaho Code, before that date.~~

(5) It is the responsibility of each employer to immediately report to the retirement board the employment of any retired member so that benefit payments can be suspended as provided in this section. If an employer fails to properly report the employment of a retired member and it results in the retirement board making benefit payments that should have been suspended, the employer shall, in addition to paying delinquent employee and employer contributions from the date of eligibility, also be responsible for repaying to the retirement board the benefit payments made to the retired member that should have been suspended, plus interest. The employer may then recoup such payments from the retired member.

(6) For purposes of this section, "same employer" means the employer for which the retired member last worked prior to retirement.

Approved March 27, 2012.

CHAPTER 170
(H.B. No. 622)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Department of Insurance, the following amounts to be expended according to the designated 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
I. INSURANCE REGULATION:				
FROM:				
Self-Governing Operating				
Fund	\$3,867,000	\$2,510,100	\$99,400	\$6,476,500
Federal Grant				
Fund	<u>239,300</u>	<u>395,000</u>	<u>0</u>	<u>634,300</u>
TOTAL	\$4,106,300	\$2,905,100	\$99,400	\$7,110,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
II. STATE FIRE MARSHAL:				
FROM:				
Self-Governing State Fire Marshal				
Fund	\$632,400	\$336,200	\$83,900	\$1,052,500
GRAND TOTAL	\$4,738,700	\$3,241,300	\$183,300	\$8,163,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Insurance is authorized no more than seventy-two (72) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, 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 AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved March 27, 2012.

CHAPTER 171
(H.B. No. 636)

AN ACT

APPROPRIATING MONEYS TO THE MILITARY DIVISION FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; AND GRANTING A CONTINUOUS APPROPRIATION FOR THE BUREAU OF HOMELAND SECURITY'S MISCELLANEOUS REVENUE FUND.

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

SECTION 1. There is hereby appropriated to the Military Division, the following amounts to be expended according to the designated 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	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MILITARY MANAGEMENT:					
FROM:					
General					
Fund	\$1,524,800	\$249,100			\$1,773,900
Indirect Cost Recovery					
Fund	318,800	20,700			339,500
Miscellaneous Revenue					
Fund		115,900			115,900
Federal Grant					
Fund	<u>0</u>	<u>167,200</u>			<u>167,200</u>
TOTAL	\$1,843,600	\$552,900			\$2,396,500
II. FEDERAL/STATE AGREEMENTS:					
FROM:					
General					
Fund	\$680,700	\$937,600			\$1,618,300
Federal Grant					
Fund	<u>11,504,000</u>	<u>14,276,900</u>			<u>25,780,900</u>
TOTAL	\$12,184,700	\$15,214,500			\$27,399,200
III. BUREAU OF HOMELAND SECURITY:					
FROM:					
General					
Fund	\$1,295,600	\$204,200			\$1,499,800
Administration and Accounting Services					
Fund	1,852,100	912,500	\$178,600		2,943,200
Federal Grant					
Fund	<u>2,359,600</u>	<u>5,920,100</u>	<u>0</u>	<u>\$14,937,900</u>	<u>23,217,600</u>
TOTAL	\$5,507,300	\$7,036,800	\$178,600	\$14,937,900	\$27,660,600
GRAND TOTAL	\$19,535,600	\$22,804,200	\$178,600	\$14,937,900	\$57,456,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Military Division is authorized no more than two hundred forty and eight-tenths (240.8) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, 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 AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 4. CONTINUOUS APPROPRIATION. The Military Division is hereby granted continuous appropriation authority for the Bureau of Homeland Security's Miscellaneous Revenue Fund for the period July 1, 2012, through June 30, 2013, for the purpose of covering incurred costs arising out of hazardous substance incidents.

Approved March 27, 2012.

CHAPTER 172
(H.B. No. 637)

AN ACT

APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXEMPTING APPROPRIATION FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Attorney General, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. STATE LEGAL SERVICES:				
FROM:				
General				
Fund	\$15,155,600	\$689,900		\$15,845,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
American Reinvestment				
Fund		189,200		189,200
Consumer Protection				
Fund	320,600	166,800	\$38,000	525,400
Professional Services				
Fund	431,100	20,000		451,100
Federal Grant				
Fund	<u>698,200</u>	<u>346,600</u>	<u>0</u>	<u>1,044,800</u>
TOTAL	\$16,605,500	\$1,412,500	\$38,000	\$18,056,000

II. SPECIAL LITIGATION:

FROM:

General

Fund	\$669,400	\$669,400
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GRAND TOTAL	\$16,605,500	\$2,081,900	\$38,000	\$18,725,400
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SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Attorney General is authorized no more than one hundred ninety-three and six-tenths (193.6) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, 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 2013, the Attorney General is hereby exempted from the provisions of Section 67-3511(1), (2) and (3), Idaho Code, allowing unlimited transfers between object codes and between programs, for all moneys appropriated to it for the period July 1, 2012, through June 30, 2013. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 4. EMPLOYEE COMPENSATION AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommenda-

tion to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved March 27, 2012.

CHAPTER 173
(H.B. No. 638)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Office of the State Appellate Public Defender from the General Fund, the following amounts to be expended for the designated expense classes, for the period July 1, 2012, through June 30, 2013:

FOR:	
Personnel Costs	\$1,672,100
Operating Expenditures	<u>381,200</u>
TOTAL	\$2,053,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of the State Appellate Public Defender is authorized no more than twenty-two (22) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, 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 AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the

extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved March 27, 2012.

CHAPTER 174
(H.B. No. 641)

AN ACT

RELATING TO APPROPRIATIONS; AMENDING SECTION 2, CHAPTER 161, LAWS OF 2011, TO APPROPRIATE ADDITIONAL MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2012; APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 161, Laws of 2011, be, and the same is hereby amended to read as follows:

SECTION 2. There is hereby appropriated to the Department of Fish and Game, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2011, through June 30, 2012:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
Fish and Game (Licenses)					
Fund	\$3,383,200	\$1,524,000	\$2,470,500		\$7,377,700
	<u>\$3,286,100</u>				<u>\$7,280,600</u>
Fish and Game (Other)					
Fund	446,100	106,200			552,300
	<u>448,400</u>				<u>554,600</u>
Fish and Game Set-Aside (Licenses)					
Fund	200	34,400			34,600
Fish and Game Set-Aside (Other)					
Fund	16,600	20,800			37,400
Expendable Big Game Depredation					
Fund		2,900			2,900
Fish and Game Expendable Trust					
Fund		7,500			7,500
Fish and Game Nonexpendable Trust					
Fund		3,600			3,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Fish and Game (Federal)					
Fund	3,594,000	2,774,700	18,400		6,387,100
	<u>3,592,500</u>				<u>6,385,600</u>
TOTAL	\$7,440,100	\$4,474,100	\$2,488,900		\$14,403,100
	<u>\$7,343,800</u>				<u>\$14,306,800</u>
II. ENFORCEMENT:					
FROM:					
Fish and Game (Licenses)					
Fund	\$7,153,200	\$1,999,700	\$154,900		\$9,307,800
	<u>\$7,232,400</u>				<u>\$9,387,000</u>
Fish and Game (Other)					
Fund	128,300	24,000			152,300
Fish and Game Set-Aside (Other)					
Fund		20,600			20,600
Fish and Game Expendable Trust					
Fund	0	26,400	0		26,400
TOTAL	\$7,281,500	\$2,070,700	\$154,900		\$9,507,100
	<u>\$7,360,700</u>				<u>\$9,586,300</u>
III. FISHERIES:					
FROM:					
Fish and Game (Licenses)					
Fund	\$3,255,700	\$2,523,600	\$263,600		\$6,042,900
	<u>\$3,259,400</u>				<u>\$6,046,600</u>
Fish and Game (Other)					
Fund	1,438,900	1,215,800	338,900		2,993,600
	<u>2,036,000</u>	<u>1,581,600</u>			<u>3,956,500</u>
Fish and Game Set-Aside (Licenses)					
Fund	208,400	254,000			462,400
Fish and Game Set-Aside (Other)					
Fund	79,700	30,700			110,400
Fish and Game Expendable Trust					
Fund	47,400	34,200			81,600
Fish and Game Nonexpendable Trust					
Fund		33,400			33,400
Fish and Game (Federal)					
Fund	10,745,600	6,651,400	867,500		18,264,500
	<u>11,225,900</u>	<u>8,678,700</u>	<u>3,144,000</u>		<u>23,048,600</u>
TOTAL	\$15,775,700	\$10,743,100	\$1,131,100		\$27,649,900
	<u>\$16,856,800</u>	<u>\$13,136,200</u>	<u>\$3,746,500</u>		<u>\$33,739,500</u>

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
IV. WILDLIFE:					
FROM:					
Fish and Game (Licenses)					
Fund	\$3,624,800	\$3,862,700	\$85,100	\$174,800	\$7,747,400
	<u>\$3,630,500</u>				<u>\$7,753,100</u>
Fish and Game (Other)					
Fund	333,600	832,000			1,165,600
	<u>540,600</u>	<u>968,400</u>			<u>1,509,000</u>
Fish and Game Set-Aside (Other)					
Fund	542,100	339,500			881,600
	<u>541,400</u>				<u>880,900</u>
Fish and Game Expendable Trust					
Fund	339,100	280,200	6,400		625,700
Fish and Game Nonexpendable Trust					
Fund	10,600	2,300			12,900
Fish and Game (Federal)					
Fund	3,852,500	2,794,700	30,000	0	6,677,200
	<u>4,096,100</u>	<u>3,465,000</u>	<u>61,800</u>		<u>7,622,900</u>
TOTAL	\$8,702,700	\$8,111,400	\$121,500	\$174,800	\$17,110,400
	<u>\$9,158,300</u>	<u>\$8,918,100</u>	<u>\$153,300</u>		<u>\$18,404,500</u>
V. COMMUNICATIONS:					
FROM:					
Fish and Game (Licenses)					
Fund	\$1,466,100	\$432,100	\$36,300		\$1,934,500
	<u>\$1,470,800</u>				<u>\$1,939,200</u>
Fish and Game (Other)					
Fund	83,800	131,300	120,000		335,100
	<u>84,000</u>				<u>335,300</u>
Fish and Game Set-Aside (Other)					
Fund	113,700	37,200			150,900
Fish and Game Expendable Trust					
Fund	28,000	6,100			34,100
		<u>13,600</u>			<u>41,600</u>
Fish and Game (Federal)					
Fund	712,300	247,400	0		959,700
	<u>722,600</u>	<u>278,900</u>			<u>1,001,500</u>
TOTAL	\$2,403,900	\$854,100	\$156,300		\$3,414,300
	<u>\$2,419,100</u>	<u>\$893,100</u>			<u>\$3,468,500</u>

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VI. ENGINEERING:					
FROM:					
Fish and Game (Licenses)					
Fund	\$824,300	\$72,800	\$6,600		\$903,700
VII. WINTER FEEDING AND HABITAT IMPROVEMENT:					
FROM:					
Fish and Game (Licenses)					
Fund	\$591,600	\$516,200	\$11,700		\$1,119,500
	<u>\$595,400</u>				<u>\$1,123,300</u>
Fish and Game (Other)					
Fund	133,200	15,300			148,500
Fish and Game Set-Aside (Licenses)					
Fund	40,500	1,329,800			1,370,300
Fish and Game Set-Aside (Other)					
Fund	63,300	4,300			67,600
	<u>64,000</u>				<u>68,300</u>
Expendable Big Game Depredation					
Fund				\$600,000	600,000
Fish and Game (Federal)					
Fund	723,500	192,600	<u>0</u>	<u>0</u>	916,100
	<u>844,000</u>	<u>236,400</u>			<u>1,080,400</u>
TOTAL	\$1,552,100	\$2,058,200	\$11,700	\$600,000	\$4,222,000
	<u>\$1,677,100</u>	<u>\$2,102,000</u>			<u>\$4,390,800</u>
GRAND TOTAL	\$43,980,300	\$28,384,400	\$4,071,000	\$774,800	\$77,210,500
	<u>\$45,640,100</u>	<u>\$31,667,000</u>	<u>\$6,718,200</u>		<u>\$84,800,100</u>

SECTION 2. There is hereby appropriated to the Department of Fish and Game, the following amounts to be expended according to the designated 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	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
Fish and Game (Licenses)					
Fund	\$3,389,700	\$1,518,900	\$2,856,500		\$7,765,100
Fish and Game (Other)					
Fund	517,100	112,000			629,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Fish and Game Set-Aside (Licenses)					
Fund	200	33,900			34,100
Fish and Game Set-Aside (Other)					
Fund	17,600	20,800			38,400
Expendable Big Game Depredation					
Fund		2,900			2,900
Fish and Game Expendable Trust					
Fund		7,300			7,300
Fish and Game Nonexpendable Trust					
Fund		3,600			3,600
Fish and Game (Federal)					
Fund	<u>3,746,500</u>	<u>2,760,700</u>	<u>92,700</u>		<u>6,599,900</u>
TOTAL	\$7,671,100	\$4,460,100	\$2,949,200		\$15,080,400

II. ENFORCEMENT:

FROM:

Fish and Game (Licenses)					
Fund	\$7,547,200	\$1,999,700	\$150,200		\$9,697,100
Fish and Game (Other)					
Fund	134,600	24,000			158,600
Fish and Game Set-Aside (Other)					
Fund		20,600			20,600
Fish and Game Expendable Trust					
Fund	<u>0</u>	<u>26,400</u>	<u>0</u>		<u>26,400</u>
TOTAL	\$7,681,800	\$2,070,700	\$150,200		\$9,902,700

III. FISHERIES:

FROM:

Fish and Game (Licenses)					
Fund	\$3,414,300	\$2,523,600	\$261,700		\$6,199,600
Fish and Game (Other)					
Fund	1,507,900	1,215,800	8,900		2,732,600
Fish and Game Set-Aside (Licenses)					
Fund	219,900	254,200			474,100
Fish and Game Set-Aside (Other)					
Fund	72,200	8,500			80,700
Fish and Game Expendable Trust					
Fund	49,200	34,200			83,400
Fish and Game Nonexpendable Trust					
Fund		33,200			33,200
Fish and Game (Federal)					
Fund	<u>11,366,100</u>	<u>6,661,400</u>	<u>13,701,900</u>		<u>31,729,400</u>
TOTAL	\$16,629,600	\$10,730,900	\$13,972,500		\$41,333,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
IV. WILDLIFE:					
FROM:					
Fish and Game (Licenses)					
Fund	\$3,778,900	\$3,968,100	\$106,000	\$174,800	\$8,027,800
Fish and Game (Other)					
Fund	309,700	876,600			1,186,300
Fish and Game Set-Aside (Other)					
Fund	789,300	365,200			1,154,500
Fish and Game Expendable Trust					
Fund	351,200	295,700			646,900
Fish and Game Nonexpendable Trust					
Fund	10,900	2,300			13,200
Fish and Game (Federal)					
Fund	<u>3,898,400</u>	<u>2,835,300</u>	<u>100,300</u>	<u>0</u>	<u>6,834,000</u>
TOTAL	\$9,138,400	\$8,343,200	\$206,300	\$174,800	\$17,862,700
V. COMMUNICATIONS:					
FROM:					
Fish and Game (Licenses)					
Fund	\$1,532,700	\$432,100	\$36,300		\$2,001,100
Fish and Game (Other)					
Fund	88,400	131,300	120,000		339,700
Fish and Game Set-Aside (Other)					
Fund	97,500	37,200			134,700
Fish and Game Expendable Trust					
Fund	29,400	6,100			35,500
Fish and Game Nonexpendable Trust					
Fund		200			200
Fish and Game (Federal)					
Fund	<u>777,900</u>	<u>257,000</u>	<u>0</u>		<u>1,034,900</u>
TOTAL	\$2,525,900	\$863,900	\$156,300		\$3,546,100
VI. ENGINEERING:					
FROM:					
Fish and Game (Licenses)					
Fund	\$858,600	\$72,800	\$6,600		\$938,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VII. WINTER FEEDING AND HABITAT IMPROVEMENT:					
FROM:					
Fish and Game (Licenses)					
Fund	\$626,000	\$516,200	\$11,700		\$1,153,900
Fish and Game (Other)					
Fund	151,700	15,300			167,000
Fish and Game Set-Aside (Licenses)					
Fund	10,100	1,329,800	45,000		1,384,900
Fish and Game Set-Aside (Other)					
Fund	134,600	4,300			138,900
Expendable Big Game Depredation					
Fund				\$600,000	600,000
Fish and Game (Federal)					
Fund	<u>636,100</u>	<u>325,100</u>	<u>0</u>	<u>0</u>	<u>961,200</u>
TOTAL	\$1,558,500	\$2,190,700	\$56,700	\$600,000	\$4,405,900
GRAND TOTAL	\$46,063,900	\$28,732,300	\$17,497,800	\$774,800	\$93,068,800

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Fish and Game is authorized no more than five hundred sixty-seven (567) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, 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 AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 27, 2012.

CHAPTER 175
(H.B. No. 642)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO COMMISSION FOR LIBRARIES FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Idaho Commission for Libraries, the following amounts to be expended for the designated 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	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$1,713,300	\$1,322,200		\$100,000	\$3,135,500
American Reinvestment					
Fund		700,000			700,000
Miscellaneous Revenue					
Fund		24,300	\$25,000	26,000	75,300
Federal Grant					
Fund	<u>499,300</u>	<u>693,400</u>	<u>25,000</u>	<u>284,400</u>	<u>1,502,100</u>
TOTAL	\$2,212,600	\$2,739,900	\$50,000	\$410,400	\$5,412,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho Commission for Libraries is authorized no more than forty and fifty-hundredths (40.50) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, 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 AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4),

Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved March 27, 2012.

CHAPTER 176
(H.B. No. 643)

AN ACT

APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Secretary of State, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. SECRETARY OF STATE:				
FROM:				
General				
Fund	\$1,644,500	\$609,400	\$13,400	\$2,267,300
II. COMMISSION ON UNIFORM LAWS:				
FROM:				
General				
Fund		\$41,000		\$41,000
GRAND TOTAL	\$1,644,500	\$650,400	\$13,400	\$2,308,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Secretary of State is authorized no more than twenty-nine (29) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, 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 AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved March 27, 2012.

CHAPTER 177
(H.B. No. 644)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2013; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION AND BENEFITS.

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

SECTION 1. There is hereby appropriated to the Idaho State Historical Society, the following amounts to be expended according to the designated 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	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$1,441,200	\$747,300	\$40,000	\$31,600	\$2,260,100
Miscellaneous Revenue					
Fund	485,300	628,200			1,113,500
Capitol Endowment Income					
Fund	58,600	48,500			107,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant					
Fund	<u>929,500</u>	<u>326,500</u>	<u>29,000</u>	<u>130,000</u>	<u>1,415,000</u>
TOTAL	\$2,914,600	\$1,750,500	\$69,000	\$161,600	\$4,895,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho State Historical Society is authorized no more than forty-seven and two-hundredths (47.02) full-time equivalent positions at any point during the period July 1, 2012, through June 30, 2013, 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 AND BENEFITS. The Legislature recognizes and thanks all state workers for their dedication, professionalism and for the personal sacrifices they make every day in the performance of their duties to serve our citizens. In accordance with the provisions of Section 67-5309C, Idaho Code, the Legislature supports the Governor's recommendation in not making changes in annual salaries and benefits for state employees based upon labor markets or specific occupational inequities; directs agencies and institutions that have excess personnel cost appropriations or salary savings due to turnover to use such funding for a merit increase component, notwithstanding the provisions of Section 67-5309B(4), Idaho Code, to recognize and reward permanent and temporary state employees; and does provide funding to agencies and institutions to provide a two percent (2%) pay increase for all classified and nonclassified permanent performing employees. Performing employees shall be all permanent employees, including adjunct faculty at colleges and universities, who have been rated as "achieves" or better on a performance plan if required by Division of Human Resources rule, including probationary permanent employees making satisfactory progress. The Legislature supports the Governor's recommendation to fund increases in the cost of health insurance benefits and directs the director of the Department of Administration, as the administrator of the state insurance plan, to maintain the current benefit package to the extent possible, which may require a cost sharing on the part of employees for the increased cost of the health insurance plan.

Approved March 27, 2012.

CHAPTER 178
(H.B. No. 386, As Amended)

AN ACT

RELATING TO SCHOLARSHIPS; AMENDING SECTION 33-4302, IDAHO CODE, TO REVISE PROVISIONS RELATING TO ELIGIBILITY OF A SCHOLARSHIP OF A SPOUSE OR CHILD, TO ESTABLISH PROVISIONS RELATING TO ELIGIBILITY FOR A SCHOLARSHIP FOR A CHILD OF A MILITARY MEMBER, TO ESTABLISH PROVISIONS RELATING TO ELIGIBILITY FOR A SCHOLARSHIP FOR A SPOUSE OF A MILITARY MEMBER, TO REVISE PROVISIONS RELATING TO AN INDIVIDUAL WHO RECEIVES A SCHOLARSHIP, TO REVISE PROVISIONS RELATING TO EDUCATIONAL QUALIFICATIONS, TO REVISE TERMINOLOGY, TO REVISE PROVISIONS RELATING TO CERTAIN BENEFITS, TO REVISE PROVISIONS RELATING TO MEMBERS OF THE ARMED FORCES AND TO PRO-

VIDE FOR RULES; AND AMENDING SECTION 33-4302A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SCHOLARSHIPS FOR THE SPOUSE OR CHILD OF A PUBLIC SAFETY OFFICER, TO ESTABLISH PROVISIONS RELATING TO THE ELIGIBILITY OF A CHILD OF A PUBLIC SAFETY OFFICER, TO ESTABLISH PROVISIONS RELATING TO THE ELIGIBILITY OF A SPOUSE OF A PUBLIC SAFETY OFFICER, TO REVISE PROVISIONS RELATING TO CERTAIN BENEFITS, TO PROVIDE FOR RULES, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 33-4302, Idaho Code, be, and the same is hereby amended to read as follows:

33-4302. SCHOLARSHIPS -- STATE AID. (1) The following individuals shall be eligible for the scholarship program provided for herein:

(a) ~~Any dependent spouse or child of any Idaho citizen who is a resident of the state of Idaho on or after the effective date of this act and who, while such person is or was a resident of the state of Idaho, has been determined by the federal government to be a prisoner of war or missing in action; or to have died of, or become totally and permanently disabled by, injuries or wounds sustained in action in southeast Asia, including Korea, or in Iraq or in Afghanistan or who shall become so hereafter, in any area of armed conflict in which the United States is a party; and~~

(b) ~~Any dependent spouse or child of any member of the armed forces of the United States who is stationed in the state of Idaho on military orders and who is deployed from the state of Idaho to any area of armed conflict in which the United States is a party and who has been determined by the federal government to be a prisoner of war or missing in action; or to have died of, or become totally and permanently disabled by, injuries or wounds sustained in action as a result of such deployment. Provided further, that such dependent must be a resident of the state of Idaho and must have completed secondary school or its equivalent in the state of Idaho.~~

(2) (a) To be eligible for the scholarship provided for herein, a child of a military member must be a resident of the state of Idaho and must have completed secondary school or its equivalent in the state of Idaho. A child already born, or born after a military member is determined to be imprisoned or missing in action, or is killed or becomes totally and permanently disabled, shall be eligible for this scholarship;

(b) To be eligible for the scholarship provided for herein, the spouse of a military member must be a resident of the state of Idaho and must have been married to such person at the time the military member was determined to be imprisoned or missing in action, or was killed or became totally and permanently disabled. Provided however, that in the situation of disability, the spouse must be currently married to such person.

(3) An eligible individual who applies for the scholarship provided for herein shall, after verification of eligibility, receive the scholarship and be admitted to attend undergraduate studies at any public institution of higher education or public professional-technical college within the state of Idaho without the necessity of paying tuition and fees therefor; such student shall be provided with books, equipment and supplies necessary for pursuit of such program of enrollment not to exceed five hundred dollars (\$500) per quarter, semester, intensified semester, or like educational period; such student shall be furnished on-campus housing and subsistence for each month he or she is enrolled full-time under this program and actually resides in such on-campus facility; provided, however, that such undergraduate educational benefits shall not exceed a total of thirty-six (36) months or four (4) nine (9) month periods. Provided further, that the initiation of such educational benefits shall extend for a period of ten

(10) years after achieving a high school diploma or its equivalency, or for a period of ten (10) years after the event giving rise to the eligibility for the scholarship, whichever is longer.

(34) The dependent eligible individual shall meet such other educational qualifications as such institution of higher education or professional-technical college has established for other prospective students of this state, as well as any additional educational qualifications established by the state board of education and board of regents of the university of Idaho.

(45) Application for eligibility under this section shall be made to the state board of education and the board of regents of the university of Idaho or the state board of vocational-technical education. The board shall verify the eligibility of the dependent applicant and communicate such eligibility to ~~the dependent~~ such person and the affected institution or college.

(56) Affected institutions shall in their preparation of future budgets include therein costs resultant from such tuition, fee, book, equipment, supply, housing and subsistence loss for reimbursement thereof from appropriations of state funds.

(7) For the purposes of this section, a member of the armed forces of the United States is considered totally and permanently disabled if ~~he or she is unable to perform with reasonable continuity the material duties of any gainful occupation for which he or she is reasonably fitted by education, training and experience at the time of application~~ a current disability determination made by the United States social security administration is in effect with respect to such individual.

~~(6) Applicants for the scholarship program herein prescribed shall provide institutional administrative personnel with documentation of their rights under this act.~~

(8) The state board of education and board of regents of the university of Idaho may adopt rules to implement and administer the scholarship program provided for in this section.

SECTION 2. That Section 33-4302A, Idaho Code, be, and the same is hereby amended to read as follows:

33-4302A. PUBLIC SAFETY OFFICER ~~DEPENDENT~~ SCHOLARSHIPS -- STATE AID. (1) Any dependent spouse or child of a full-time or part-time public safety officer, as defined in subsection (56) of this section, employed by or volunteering for the state of Idaho or for a political subdivision of the state of Idaho, which public safety officer is or was a resident of the state of Idaho at the time such officer was killed or totally and permanently disabled in the line of duty shall be admitted to attend undergraduate studies at any public institution of higher education or public professional-technical college within the state of Idaho without the necessity of paying tuition and fees therefor. Said dependents persons shall be provided by the institution or college with books, equipment and supplies necessary for pursuit of the dependent's person's chosen program of enrollment not to exceed the actual cost therefor, or five hundred dollars (\$500), whichever is less, per quarter, semester, intensified semester, or like education period. Said dependent person shall be provided with the institution or college's published normal on-campus residential facility housing and meals program for each month the dependent person is enrolled full time under this statute and continues to actually reside in such on-campus residential facility. Provided however, that the undergraduate educational benefits provided for in this section shall not exceed a total of thirty-six (36) months or four (4) nine-month periods; provided further, that such educational benefits shall not extend beyond ten (10) years following the date the dependent person receives a high school diploma, a high school equivalency diploma, a special

diploma or a certificate of high school completion, or beyond the date such dependent person turns thirty (30) years old, whichever comes first.

(2) (a) To be eligible for the scholarship provided for herein, a child of a public safety officer must be a resident of the state of Idaho and must have completed a secondary school or its equivalent in the state of Idaho. A child already born, or born after a public safety officer is killed or becomes totally and permanently disabled, shall be eligible for this scholarship.

(b) To be eligible for the scholarship provided for herein, the spouse of a public safety officer must be a resident of the state of Idaho and must have been married to such person at the time the public safety officer was killed or became totally and permanently disabled. Provided however, that in the situation of disability, the spouse must be currently married to such person.

(3) The dependent eligible individual shall be required to meet the educational qualifications as such institution of higher education or professional-technical college as established for other prospective students of this state, as well as any additional educational qualifications established by the state board of education and board of regents of the university of Idaho. Application for eligibility under this section shall be made to the state board of education and board of regents of the University of Idaho. The board shall verify the eligibility of the dependent such person and communicate such eligibility to the dependent person and the affected institution or college.

(34) Affected institutions and colleges shall, in their preparation of future budgets, include therein costs resulting from such tuition, fees, housing, meals, books, equipment and supplies for reimbursement thereof from appropriations of state funds.

For the purposes of this section, a public safety officer employed by or volunteering for the state of Idaho or for a political subdivision of the state of Idaho is considered totally and permanently disabled if he or she is unable to perform with reasonable continuity the material duties of any gainful occupation for which he or she is reasonably fitted by education, training and experience at the time of application a current disability determination made by the United States social security administration is in effect with respect to such individual.

(45) The scholarships provided in this section shall be available for dependents the spouse or children of public safety officers who were killed or totally and permanently disabled in 1975 or thereafter.

(56) For purposes of this section:

(a) "Public safety officer" means a peace officer or firefighter, or a paramedic, emergency medical technician or first responder as those terms are defined in section 56-1012, Idaho Code.

(b) "Volunteering" means contributing services as a bona fide member of a legally organized law enforcement agency, fire department or licensed emergency medical service provider organization.

(67) The scholarship provided in this section shall not be available unless it is determined that:

(a) The death or disablement of the public safety officer occurred in the performance of the officer's duties;

(b) The death or disablement was not caused by the intentional misconduct of the public safety officer or by such officer's intentional infliction of injury; and

(c) The public safety officer was not voluntarily intoxicated at the time of death.

(8) The state board of education and board of regents of the university of Idaho may adopt rules to implement and administer this scholarship program.

Approved March 29, 2012.

CHAPTER 179
(H.B. No. 491, As Amended)

AN ACT

RELATING TO VOTING MACHINE APPROVAL; AMENDING SECTION 34-2409, IDAHO CODE, TO PROVIDE THAT ANY VOTING MACHINE OR VOTE TALLY SYSTEM SHALL BE CERTIFIED BY THE SECRETARY OF STATE FOR USE IN IDAHO AND TO PROVIDE FOR TESTING WITH EXCEPTIONS PRIOR TO CERTIFICATION.

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

SECTION 1. That Section 34-2409, Idaho Code, be, and the same is hereby amended to read as follows:

34-2409. EXAMINATION OF MACHINES BY SECRETARY OF STATE PRIOR TO ADOPTION. (1) The secretary of state shall publicly examine all makes of voting machines or vote tally systems submitted to him and determine whether the machines or vote tally systems comply with the requirements of this chapter, and can safely be used by voters at elections under the provisions of this chapter. ~~In order for a~~Any voting machine or vote tally system ~~to shall be certified by the secretary of state for use in Idaho it must meet the federal election commission standards and be approved for use by an independent testing authority sanctioned by the national association of state election directors (NASED) or be certified by the federal election assistance commission.~~ Except for functions or capabilities unique to this state, voting machines and vote tally systems shall be tested and the results certified by an independent testing authority designated by the secretary of state prior to certification.

(2) Any person owning or interested in a voting machine or vote tally system may submit it to the secretary of state for examination. No examination shall be conducted unless documentation is provided indicating that the voting machine or vote tally system meets the federal election commission standards. For the purpose of assistance in examining the machine or vote tally system the secretary of state may employ not more than three (3) individuals who are expert in one (1) or more of the fields of data processing, mechanical engineering and public administration. The compensation of these assistants shall be paid by the person submitting the machine or vote tally system.

(3) Within thirty (30) days after completing the examination and approval of any voting machine or vote tally system the secretary of state shall make and file in his office his report on the machine or vote tally system, together with a written or printed description and drawings and photographs clearly identifying the machine or vote tally system and the operation thereof. As soon as practicable after such filing, the secretary of state upon request shall send a copy of the report to any governing body within the state.

(4) Any voting machine or vote tally system that receives the approval of the secretary of state may be used for conducting elections in this state. Any machine or vote tally system that does not receive such approval shall not be adopted for or used at any election. After a voting machine or vote tally system has been approved by the secretary of state, any change or improvement in the machine or vote tally system that does not impair its accuracy, efficiency or capacity shall not render necessary a reexamination or reapproval of the machine or vote tally system.

(5) Any voting system, including paper ballots, that was used in the 2004 general election shall be continued to be authorized for use as long as the voting system meets the requirements of the "Help America Vote Act of 2002," Public Law 107-252.

(6) For all elections conducted after 2004, no direct recording electronic voting device shall be used unless the direct recording electronic voting device has a voter verifiable paper audit trail. Any certifications of a direct recording electronic voting device without a voter verifiable paper audit trail are hereby declared null and void.

(7) The secretary of state may periodically review the various voting systems that have been certified for use in the state to ensure such systems meet the standards set forth by the federal election assistance commission and the national institute of standards and technology. Any voting system that does not meet such standards may be decertified after a public hearing.

Approved March 29, 2012.

CHAPTER 180

(H.B. No. 497, As Amended in the Senate)

AN ACT

RELATING TO DNA TESTING; AMENDING SECTION 19-4902, IDAHO CODE, TO PROVIDE CONDITIONS RELATING TO CERTAIN DNA TESTING AND TO PROVIDE THAT THE IDAHO STATE POLICE SHALL NOT BE REQUIRED TO OUTSOURCE OR PAY FOR TESTING UNDER CERTAIN CIRCUMSTANCES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 19-4902, Idaho Code, be, and the same is hereby amended to read as follows:

19-4902. COMMENCEMENT OF PROCEEDINGS -- VERIFICATION -- FILING -- SERVICE -- DNA TESTING. (a) A proceeding is commenced by filing an application verified by the applicant with the clerk of the district court in which the conviction took place. An application may be filed at any time within one (1) year from the expiration of the time for appeal or from the determination of an appeal or from the determination of a proceeding following an appeal, whichever is later. Facts within the personal knowledge of the applicant and the authenticity of all documents and exhibits included in or attached to the application must be sworn to affirmatively as true and correct. The supreme court may prescribe the form of the application and verification. The clerk shall docket the application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the prosecuting attorney.

(b) A petitioner may, at any time, file a petition before the trial court that entered the judgment of conviction in his or her case for the performance of fingerprint or forensic deoxyribonucleic acid (DNA) testing on evidence that was secured in relation to the trial which resulted in his or her conviction but which was not subject to the testing that is now requested because the technology for the testing was not available at the time of trial. The clerk shall docket the application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the prosecuting attorney.

(c) The petitioner must present a prima facie case that:

(1) Identity was an issue in the trial which resulted in his or her conviction; and

(2) The evidence to be tested has been subject to a chain of custody sufficient to establish that such evidence has not been substituted, tampered with, replaced or altered in any material aspect.

(d) A petitioner who pleaded guilty in the underlying case may file a petition under subsection (b) of this section.

(e) The trial court shall allow the testing under reasonable conditions designed to protect the state's interests in the integrity of the evidence and the testing process upon a determination that:

(1) The result of the testing has the scientific potential to produce new, noncumulative evidence that would show that it is more probable than not that the petitioner is innocent; and

(2) The testing method requested would likely produce admissible results under the Idaho rules of evidence.

(f) In the event the fingerprint or forensic DNA test results demonstrate, in light of all admissible evidence, that the petitioner is not the person who committed the offense, the court shall order the appropriate relief.

(g) The cost of the forensic DNA test shall be at the petitioner's expense, except to the extent the petitioner qualifies for the test at public expense pursuant to chapter 8, title 19, Idaho Code, in which case the fingerprint or forensic DNA test shall be performed by, and paid for by funds allocated for, Idaho state police forensic services, provided the requested method of testing or specific technology is validated by the lab, within the laboratory accreditation scope, and laboratory staff are qualified and satisfactorily performing proficiency testing in the testing method. If the laboratory does not offer the specific type of testing required, the Idaho state police shall not be required to outsource the testing or in any way pay for or reimburse any entity for the testing to be performed. For the purposes of this subsection, "validated" means the accumulation of test data within the laboratory to demonstrate that established methods and procedures perform as expected in the laboratory. The petitioner may choose an ISO/IEC 17025 or an American society of crime laboratory directors/laboratory accreditation board accredited DNA testing laboratory to perform the DNA testing. Such testing shall be at the petitioner's expense.

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

Approved March 29, 2012.

CHAPTER 181

(H.B. No. 502, As Amended)

AN ACT

RELATING TO UNIFORMED CONTROLLED SUBSTANCES; AMENDING SECTION 37-2705, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SCHEDULE I CONTROLLED SUBSTANCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 37-2709, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SCHEDULE III CONTROLLED SUBSTANCES AND TO PROVIDE A CORRECT CITATION; AMENDING SECTION 37-2711, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SCHEDULE IV CONTROLLED SUBSTANCES; AND AMENDING SECTION 37-2713, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SCHEDULE V CONTROLLED SUBSTANCES.

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-piperidinyl]-N-phenylacetamide);
- (2) Acetylmethadol;
- (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) Hydromorphenol;
- (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);
- (167) Alpha-methyltryptamine;
- (178) Bufotenine;
- (189) Diethyltryptamine (DET);
- (1920) Dimethyltryptamine (DMT);
- (201) Ibogaine;
- (212) Lysergic acid diethylamide;
- (223) Marijuana;
- (234) Mescaline;
- (245) Parahexyl;
- (256) Peyote;
- (267) N-ethyl-3-piperidyl benzilate;
- (278) N-methyl-3-piperidyl benzilate;
- (289) Psilocybin;
- (2930) Psilocyn;
- (301) 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. Δ^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. Δ^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~~ its geometric isomers (HU211 or dexanabinol).

ii. The following synthetic drugs:

- a. Any compound structurally derived from 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane by substitution at the nitrogen atom of the indole ring by ~~alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl~~ to any extent, whether or not further substituted in the indole ring to any extent, whether or not substituted in the naphthyl ring to any extent.
- b. Any compound structurally derived from 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring by ~~alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl~~ 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 by ~~alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl~~ 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 with ~~alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl~~ 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 by ~~alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl~~ 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 by ~~alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl~~ 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)pyrrolo[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).

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

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

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

(345) 1-[1-(2-thienyl) cyclohexyl] pyrrolidine another name: TCPy;

(356) 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 con-

tains 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, alkylenedioxy, alkoxy, haloalkyl, hydroxyl or halide substituents, 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. That Section 37-2709, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

- (1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in schedule II which compounds, mixtures, or preparations were listed ~~on August 25, 1971,~~ as excepted compounds under C.F.R. ~~See. 308.32~~ 21 CFR 1308.32, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances.
- (2) Benzphetamine;
- (3) Chlorphentermine;
- (4) Clortermine;
- (5) Phendimetrazine.

(c) Depressants. Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following

substances having a potential for abuse associated with a depressant effect on the central nervous system:

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

more active, nonnarcotic ingredients in recognized therapeutic amounts;

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

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

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

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

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

(i) Buprenorphine.

(ii) [Reserved].

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

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

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

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

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

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

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

(7) 19-nor-4-androstenediol;

(8) 19-nor-4-androstenedione;

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

(10) 19-nor-5-androstenediol;

(11) 19-nor-5-androstenedione;

(12) 1-androstenediol;

(13) 1-androstenedione;

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

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

(16) 4-androstenediol;

(17) 4-androstenedione;

(18) 4-hydroxy-19-nortestosterone;

(19) 4-hydroxytestosterone;

(20) 5-androstenediol;

(21) 5-androstenedione;

(22) Androstenedione;

(23) Bolasterone;

(24) Boldenone;

(25) Boldione;

(26) Calusterone;

(27) Chlorotestosterone (4-chlorotestosterone);

(28) ~~Cherionic genadetropin;~~

~~(29) Clostebol;~~

(3029) Dehydrochlormethyltestosterone;

(310) Delta1-dihydrotestosterone;

(321) Desoxymethyltestosterone;

(332) Dihydrotestosterone (4-dihydrotestosterone);

- (343) Drostanolone;
- (354) Ethylestrenol;
- (365) Fluoxymesterone;
- (376) Formebolone;
- (387) Furazabol;
- (398) Human growth hormones;
- (4039) Mestanolone;
- (410) Mesterolone;
- (421) Methandienone;
- (432) Methandranone;
- (443) Methandriol;
- (454) Methandrostenolone;
- (465) Methenolone;
- (476) Methyldienolone;
- (487) Methyltestosterone;
- (498) Methyltrienolone;
- (5049) Mibolerone;
- (510) Nandrolone;
- (521) Norbolethone;
- (532) Norclostebol;
- (543) Norethandrolone;
- (554) Normethandrolone;
- (565) Oxandrolone;
- (576) Oxymesterone;
- (587) Oxymetholone;
- (598) Stanolone;
- (6059) Stanozolol;
- (610) Stenbolone;
- (621) Testolactone;
- (632) Testosterone;
- (643) Testosterone cypionate;
- (654) Testosterone enanthate;
- (665) Testosterone propionate;
- (676) Tetrahydrogestrinone;
- (687) Trenbolone.

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

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

(g) Hallucinogenic substances.

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

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

- (1) Butorphanol.

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

SECTION 3. That Section 37-2711, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

- (1) Alprazolam;
- (2) Barbitol;
- (3) Bromazepam;
- (4) Camazepam;
- (5) Carisprodol;
- (6) Chloral betaine;
- (67) Chloral hydrate;
- (78) Chlordiazepoxide;
- (89) Clobazam;
- (910) Clonazepam;
- (101) Clorazepate;
- (112) Clotiazepam;
- (123) Cloxazolam;
- (134) Delorazepam;
- (145) Diazepam;
- (156) Dichloralphenazone;
- (167) Estazolam;
- (178) Ethchlorvynol;
- (189) Ethinamate;
- (1920) Ethyl loflazepate;
- (201) Fludiazepam;
- (212) Flurazepam;
- (223) Halazepam;
- (234) Haloxazolam;
- (245) Ketazolam;
- (256) Loprazolam;
- (267) Lorazepam;
- (278) Lormetazepam;
- (289) Mebutamate;
- (2930) Medazepam;

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

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

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

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

- (1) Cathine ((+)-norpseudoephedrine);
- (2) Diethylpropion;
- (3) Fencamfamin;
- (4) Fenproporex;
- (5) Mazindol;
- (6) Mefenorex;
- (7) Modafinil;
- (8) Pemoline (including organometallic complexes and chelates thereof);
- (9) Phentermine;
- (10) Pipradrol;
- (11) Sibutramine;
- (12) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

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

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

(g) The board may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (c) of this section from the application of all or any part of this act if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or

concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

SECTION 4. That Section 37-2713, Idaho Code, be, and the same is hereby amended to read as follows:

37-2713. SCHEDULE V. (a) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts, as set forth below.

(c) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts thereof, which shall include one (1) or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) Not more than 0.5 milligrams difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

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

(1) Ezogabine [N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester]-2779;

(2) Lacosamide;

(23) Pregabalin;

(34) Propylhexedrine (except as Benzedrex™ inhaler);

(45) Pyrovalerone.

Approved March 29, 2012.

CHAPTER 182

(H.B. No. 522, As Amended)

AN ACT

RELATING TO PUBLIC ASSISTANCE BENEFIT CARDS; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-227F, IDAHO CODE, TO PROVIDE FOR PROHIBITED USES OF PUBLIC ASSISTANCE BENEFIT CARDS BY RECIPIENTS, TO REQUIRE CERTAIN BUSINESSES TO COMPLY WITH PROHIBITED USES OF PUBLIC ASSISTANCE BENEFIT CARDS, TO AUTHORIZE THE DEPARTMENT TO NOTIFY A BUSINESS AND A LICENSING AUTHORITY IF A BUSINESS DOES NOT COMPLY WITH THE PROHIBITED USES OF PUBLIC ASSISTANCE BENEFIT CARDS, TO PROVIDE THAT ONLY A RECIPIENT OR AUTHORIZED USER CAN USE A PUBLIC ASSISTANCE BENEFIT CARD, TO REQUIRE THE DEPARTMENT TO PROVIDE NOTICE TO RECIPIENTS, TO PROVIDE FOR A PENALTY, TO DEFINE TERMS AND TO PROVIDE FOR ENFORCEMENT.

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

SECTION 1. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-227F, Idaho Code, and to read as follows:

56-227F. PUBLIC ASSISTANCE BENEFIT CARDS -- PROHIBITED USES. (1) Any recipient of public assistance is prohibited from using public assistance benefit cards or cash obtained with public assistance benefit cards:

(a) For the purpose of participating in any of the activities described under chapters 38 and 49, title 18, Idaho Code, or authorized pursuant to any state-tribal gaming compact under section 67-429A, Idaho Code;

(b) For the purpose of pari-mutuel betting authorized under chapter 25, title 54, Idaho Code;

(c) To purchase lottery tickets or shares authorized under chapter 74, title 67, Idaho Code;

(d) For the purpose of participating in or purchasing tattoo, branding or body piercing services as defined in section 18-1523, Idaho Code;

(e) To purchase cigarettes as defined in section 39-7802(d), Idaho Code, or tobacco products as defined in section 39-5702(13), Idaho Code;

(f) To purchase any items regulated under title 23, Idaho Code;

(g) For the purpose of adult entertainment at venues with performances that contain sexually oriented material where minors under the age of eighteen (18) are prohibited; or

(h) For the purpose of purchasing or participating in any activities in any location listed in subsection (2) of this section.

(2) The following businesses are required to comply with the provisions of this section:

(a) Any establishment or business licensed under chapter 9, title 23, Idaho Code;

(b) State liquor stores defined under section 23-902, Idaho Code, with the exception of special distributors as referenced in chapter 3, title 23, Idaho Code;

(c) Any business or agency that issues or underwrites bail bonds as defined in section 41-1038(3), Idaho Code;

(d) Gambling establishments licensed under Idaho law;

(e) Any business or establishment that offers tattoo, body piercing or branding services as defined in section 18-1523, Idaho Code;

(f) Adult entertainment venues with performances that contain sexually oriented material where minors under the age of eighteen (18) are prohibited; and

(g) Any establishment where persons under the age of eighteen (18) are not permitted.

(3) The department shall notify any business determined to be in violation of the provisions of subsection (2) of this section and the licensing authority of any such business, if applicable, that such business has continued to allow the use of a public assistance benefit card in violation of subsection (2) of this section. The department may require the Idaho quest electronic benefits transfer (EBT) card business identification number (BIN) be disabled at any business found to be in violation of subsection (2) of this section. Any business in violation of subsection (2) of this section may also be required to deny all public assistance cash transactions made with an Idaho quest EBT card at any automated teller machine (ATM) located in their establishment. All costs associated with disabling the BIN and ATM will be the responsibility of such business owner.

(4) Only the recipient, an eligible member of the recipient's household or the recipient's authorized representative may use a public assistance benefit card or the benefit, and such use shall only be for the respective benefit program purposes. The recipient shall not sell, attempt

to sell, exchange or donate a public assistance benefit card or any benefits to any other person or entity.

(5) A violation of subsection (1) or (4) of this section by a recipient constitutes a misdemeanor.

(a) The department shall notify all recipients of public assistance benefit cards that any violation of subsection (1) or (4) of this section could result in legal proceedings and forfeiture of all cash public assistance.

(b) Whenever the department has confirmed that a person has violated subsection (1) or (4) of this section, the department shall notify the person in writing that the violation could result in legal proceedings and forfeiture of all cash public assistance.

(6) As used in this section, "public assistance" or "public assistance benefit" means benefits provided to a recipient pursuant to the temporary assistance for families in Idaho (TAFI) program on an Idaho quest EBT card account.

(7) This section shall be enforced by the director of the department of health and welfare in cooperation with local law enforcement and prosecuting agencies.

Approved March 29, 2012.

CHAPTER 183
(H.B. No. 549)

AN ACT

RELATING TO LIENS; AMENDING SECTION 45-1910, IDAHO CODE, TO PROVIDE WHEN A NOTICE OF STATE LIEN WITH A COUNTY RECORDER FILED ON A DATE CERTAIN SHALL LAPSE, TO PROVIDE WHEN NOTICE OF A STATE LIEN TRANSITIONED TO THE SECRETARY OF STATE SHALL REMAIN IN EFFECT 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 45-1910, Idaho Code, be, and the same is hereby amended to read as follows:

45-1910. EFFECTIVE DATE AND TRANSITION. (1) This chapter shall be in full force and effect for all notices of state lien which are filed on or after July 1, 1998.

(2) Except for notices of state lien for child support delinquency, the transition period for filing notices of state lien shall begin on January 1, 1998, and end on June 30, 1998. The following conditions shall apply to notices which were filed or recorded before January 1, 1998, and to notices filed during the transition period:

(a) A notice of state lien which was recorded with a county recorder between January 1, 1993, and June 30, 1993, shall lapse on the fifth anniversary of the recording date, unless the filing agency records a notice of renewal with the recorder prior to the lapse and files a notice of transition and continuation with the secretary of state before July 1, 1998. A notice of transition and continuation shall include all of the information required by section 45-1904, Idaho Code, the date of the recording of the original notice with the county recorder, and a statement that the effectiveness of the notice is to be continued for another five (5) year period. In the event the filing agency files a notice of transition and continuation, the effectiveness of the notice of state lien shall lapse on the tenth anniversary of the original recording

date, unless the filing agency files a further notice of continuation as required by section 45-1906(4), Idaho Code.

(b) A notice of state lien which was recorded with a county recorder between July 1, 1993, and December 31, 1997, will remain effective beyond June 30, 1998, only if a filing agency files a notice of transition with the secretary of state during the transition period. A notice of transition shall include all of the information required by section 45-1904, Idaho Code, and the date of the recording of the original notice with the county recorder. After a notice of transition has been filed, the effectiveness of the notice of state lien shall lapse on the fifth anniversary of the date of the recording with the county recorder, unless the filing agency files a notice of continuation as required by section 45-1906(4), Idaho Code.

(c) A notice of state lien which is first filed during the transition period shall be fully effective during the transition period only if the filing agency has filed a notice with the secretary of state and recorded a notice with the appropriate county recorder. A notice of state lien which is filed with the secretary of state during the transition period, and which is not recorded with the county recorder, shall be fully effective on and after July 1, 1998, and shall be effective before that date against any party with actual notice after the date of filing. A notice of state lien which is recorded with a county recorder during the transition period, but not filed with the secretary of state, shall be fully effective through June 30, 1998. A notice of state lien first filed during the transition period shall lapse on the fifth anniversary of the date of filing with the secretary of state, unless the filing agency files a notice of continuation as required by section 45-1906(4), Idaho Code.

(3) The effectiveness of a notice of state lien for child support delinquency which was recorded with a county recorder shall lapse on July 1, 1998, unless a notice of transition is filed with the secretary of state on or before July 1, 1998. If a notice of transition is filed, the notice of state lien will remain effective until a notice of release is filed pursuant to section 45-1908(2), Idaho Code.

(4) A notice of state lien on record with a county recorder before July 1, 1998, and not previously lapsed or released, shall be deemed to have lapsed on July 1, 1998, and shall be null, void and of no further force and effect.

(5) A notice of state lien transitioned to the secretary of state will remain in effect on the records of the secretary of state pursuant to the procedures of section 45-1906, Idaho Code, despite having lapsed with the county recorder under the preceding section.

(6) Notwithstanding the provisions of section 45-1905, Idaho Code, a state lien which was perfected under a prior law and transitioned to perfection under this chapter without a break in perfection, shall have priority as if it had been filed under this chapter on the date of its original perfection under the prior law.

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

Approved March 29, 2012.

CHAPTER 184
(H.B. No. 550)

AN ACT

RELATING TO BUSINESS ENTITY NAMES; AMENDING SECTION 30-6-108, IDAHO CODE, TO PROVIDE THAT THE NAME OF A LIMITED LIABILITY COMPANY MAY NOT CONTAIN LANGUAGE FALSELY STATING OR IMPLYING GOVERNMENT AFFILIATION, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 53-2-108, IDAHO CODE, TO PROVIDE THAT THE NAME OF A LIMITED PARTNERSHIP MAY NOT CONTAIN LANGUAGE FALSELY STATING OR IMPLYING GOVERNMENT AFFILIATION AND TO PROVIDE CORRECT CODE REFERENCES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 30-6-108, Idaho Code, be, and the same is hereby amended to read as follows:

30-6-108. NAME. (1) The name of a limited liability company must contain the words "limited liability company" or "limited company" or the abbreviation "L.L.C.," "LLC," "L.C.," or "LC." "Limited" may be abbreviated as "ltd." and "company" may be abbreviated as "co." If the limited liability company is a professional company, however, the name of the limited liability company must contain the words "Professional Company" or the abbreviations "P.L.L.C." or "PLLC."

(2) The name of a limited liability company may not contain language falsely stating or implying government affiliation.

(3) Unless authorized by subsection (34) of this section, the name of a limited liability company must be distinguishable on the records of the secretary of state from:

(a) The name of each person that is not an individual and that is incorporated, organized or authorized to transact business in this state;

(b) The limited liability company name stated in each certificate of organization that contains the statement as provided in section 30-6-201(2)(c), Idaho Code, and that has not lapsed; and

(c) Each name reserved under section 30-6-109, Idaho Code, and sections 30-1-402 and 30-1-403, Idaho Code, sections 30-3-28 and 30-3-29, Idaho Code, and section 53-2-109, Idaho Code.

(34) A limited liability company may apply to the secretary of state for authorization to use a name that does not comply with subsection (23) of this section. The secretary of state shall authorize use of the name applied for if, as to each noncomplying name:

(a) The present user, registrant or owner of the noncomplying name consents in a signed record to the use and submits an undertaking in a form satisfactory to the secretary of state to change the noncomplying name to a name that complies with subsection (23) of this section and is distinguishable in the records of the secretary of state from the name applied for; or

(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court establishing the applicant's right to use in this state the name applied for.

(45) Subject to section 30-6-805, Idaho Code, this section applies to a foreign limited liability company transacting business in this state which has a certificate of authority to transact business in this state or which has applied for a certificate of authority.

SECTION 2. That Section 53-2-108, Idaho Code, be, and the same is hereby amended to read as follows:

53-2-108. NAME. (1) The name of a limited partnership may contain the name of any partner.

(2) The name of a limited partnership that is not a limited liability limited partnership must contain the phrase "limited partnership" or the abbreviation "L.P." or "LP" and may not contain the phrase "limited liability limited partnership" or the abbreviation "LLLP" or "L.L.L.P."

(3) The name of a limited liability limited partnership must contain the phrase "limited liability limited partnership" or the abbreviation "LLLP" or "L.L.L.P." and must not contain the abbreviation "L.P." or "LP."

(4) The name of a limited partnership may not contain language falsely stating or implying government affiliation.

~~(5) Unless authorized by subsection (56) of this section, the name of a limited partnership must not falsely imply government affiliation and must be distinguishable in the records of the secretary of state from:~~

~~(a) The name of each person other than an individual incorporated, organized, or authorized to transact business in this state; and~~

~~(b) Each name reserved under section 53-2-109, Idaho Code, or other state law allowing the reservation or registration of business names.~~

(56) A limited partnership may apply to the secretary of state for authorization to use a name that does not comply with subsection (45) of this section. The secretary of state shall authorize use of the name applied for if, as to each conflicting name:

(a) The present user, registrant, or owner of the conflicting name consents in a signed record to the use and submits an undertaking in a form satisfactory to the secretary of state to change the conflicting name to a name that complies with subsection (45) of this section and is distinguishable in the records of the secretary of state from the name applied for;

(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use in this state the name applied for; or

(c) The applicant delivers to the secretary of state proof satisfactory to the secretary of state that the present user, registrant, or owner of the conflicting name:

(i) Has merged into the applicant;

(ii) Has been converted into the applicant; or

(iii) Has transferred substantially all of its assets, including the conflicting name, to the applicant.

(67) Subject to section 53-2-905, Idaho Code, this section applies to any foreign limited partnership transacting business in this state, having a certificate of authority to transact business in this state, or applying for a certificate of authority.

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

Approved March 29, 2012.

CHAPTER 185
(H.B. No. 569)

AN ACT

RELATING TO UNIFORM CONTROLLED SUBSTANCES; AMENDING SECTION 37-2726, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE DESCRIPTION OF CONTROLLED SUBSTANCES.

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

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

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

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

(a) Authorized individuals employed by the boards responsible for conducting investigations related to the licensing and discipline of practitioners;

(b) Peace officers employed by federal, state and local law enforcement agencies engaged as a specified duty of their employment in enforcing law regulating controlled substances;

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

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

(e) A licensed pharmacist having authority to dispense controlled substances to the extent the information relates specifically to a current patient to whom that pharmacist is dispensing or considering dispensing any controlled substance;

(f) An individual who is the recipient of a controlled substance prescription entered into the database or that individual's attorney, upon providing evidence satisfactory to the board that the individual requesting the information is in fact the person about whom the data entry was made or the attorney for that person;

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

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

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

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

- (b) The information provided to each such individual; and
- (c) The date and time the information is requested or provided.

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

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

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

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

(8) The definitions set forth in section 37-2701, Idaho Code, shall apply to this section.

Approved March 29, 2012.

CHAPTER 186
(H.B. No. 570)

AN ACT

RELATING TO THE PEACE OFFICER AND DETENTION OFFICER TEMPORARY DISABILITY ACT; AMENDING SECTION 72-1104, IDAHO CODE, TO REVISE PROVISIONS RELATING TO COMPENSATION AND COSTS; AND PROVIDING A SUNSET DATE.

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

SECTION 1. That Section 72-1104, Idaho Code, be, and the same is hereby amended to read as follows:

72-1104. COMPENSATION AND COSTS. On and after July 1, 2008, and subject to available funds in the peace officer and detention officer temporary disability fund established in section 72-1105, Idaho Code:

(1) Any peace officer or detention officer employed by the state of Idaho or any city or county thereof who is injured in the performance of his or her duties:

(a) When responding to an emergency; or

(b) When in the pursuit of an actual or suspected violator of the law;
or

(c) When the injury is caused by the actions of another person,

and by reason thereof is temporarily incapacitated from performing his or her duties and qualifies for worker's compensation wage loss benefits under title 72, Idaho Code, shall be paid his or her full rate of base salary, as fixed by the state or by applicable ordinance or resolution, until the temporary disability arising from such injury has ceased. The employer shall withhold, collect and pay income tax on the salary paid to the employee as required by chapter 30, title 63, Idaho Code. Determinations and any disputes regarding entitlement to benefits under this chapter shall be decided by the industrial commission in accordance with the provisions of title 72, Idaho Code, and commission rules.

(2) During the period for which the salary for temporary incapacity shall be paid by the employer, any worker's compensation received or collected by the employee shall be remitted to the state or to the respective city or county, as applicable, and paid into the treasury thereof. In addition, the employer shall be reimbursed for any remaining amount of salary not covered by such worker's compensation by application to the peace officer and detention officer temporary disability fund, as established in section 72-1105, Idaho Code, pursuant to rules adopted by the industrial commission; provided however, that any such reimbursement from the fund shall continue only during such period as the employee qualifies for worker's compensation wage loss benefits under title 72, Idaho Code.

SECTION 2. The provisions of Section 72-1104(1)(c) of this act shall be null, void and of no force and effect on and after July 1, 2015.

Approved March 29, 2012.

CHAPTER 187
(H.B. No. 582)

AN ACT

RELATING TO INCOME TAXATION; AMENDING SECTION 63-3022L, IDAHO CODE, TO REVISE PROVISIONS RELATING TO TAXATION OF INCOME OF OWNERS OF AN INTEREST IN A PASS-THROUGH ENTITY, TO DEFINE A TERM AND TO PROVIDE ADMINISTRATIVE PROVISIONS; AMENDING SECTION 63-3036B, IDAHO CODE, TO REVISE PROVISIONS REGARDING BACKUP WITHHOLDING FOR PASS-THROUGH ENTITIES; AMENDING SECTION 63-3082, IDAHO CODE, TO PROVIDE A CORRECT TERM; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3022L. INDIVIDUALS WHO ARE OFFICERS, DIRECTORS OR OWNERS OF AN INTEREST IN A PASS-THROUGH ENTITY OR BENEFICIARIES OF A TRUST OR ESTATE. (1) Individuals who are ~~officers, directors or~~ not a resident of Idaho as defined in section 63-3014, Idaho Code, but who are owners of an interest in a pass-through entity, as defined in section 63-3006C, Idaho Code, transacting business in Idaho or who are beneficiaries of a trust or estate with income taxable in Idaho may elect to have Idaho tax relating to income described in subsection (2) of this section reported and paid by the pass-through entity on a return, referred to in this section as a "com-

posite return." Income subject to the election in this subsection shall be taxed at the rate applicable to corporations. The election in this section is not available to an individual who is an Idaho resident or to a nonresident who has Idaho taxable income in addition to income subject to the election allowed in this section. The option to file a composite return and pay tax for nonresident owners is in lieu of the backup withholding requirements of section 63-3036B, Idaho Code.

~~(2) The election in provisions of subsection (1) of this section applies to:~~

~~(a) Wages, salary and other compensation paid by the pass-through entity to such officers, directors, owners of an interest in a pass-through entity or beneficiaries to the extent the compensation is Idaho taxable income of the individual to whom it is paid; and~~

~~(b) The share of any income, loss, deduction or credit of a pass-through entity required to be included on such individual's Idaho return.~~

~~(3) The election in subsection (1) shall be made at the time and in the manner prescribed in the rules of the state tax commission and once made is irrevocable for the taxable year. A new election may be made each year. The state tax commission may, by rule, provide for continuing elections or for the renewal of elections or both.~~

~~(4) If no election is made under subsection (1) of this section, the pass-through entity shall withhold taxes as required in section 63-3036B, Idaho Code.~~

~~(5) For purposes of subsection (2) of this section, deductions, loss and credits allowed in computing the tax liability and income attributable to an electing the individual owner shall be prescribed in the rules of the state tax commission.~~

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

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

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

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

(2) For each nonresident individual for whom withholding is required under who has income described in subsection (42) of section 63-3022L, Idaho Code, the pass-through entity shall withhold tax on the individual's share of income from the pass-through entity required to be included in Idaho tax-

able income of the individual, at the highest marginal rate applicable for the taxable year under section 63-3024, Idaho Code.

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

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

~~(b) In regard to an individual who makes a timely election under section 63-3022L, Idaho Code, to have the individual's tax reported and paid on the pass-through entity's return; or~~

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

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

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

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

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

(6) A pass-through entity is liable to this state for amounts of tax required to be withheld and paid under the provisions of this section. A pass-through entity is not liable to an officer, director, or individual owner of an interest in the pass-through entity for amounts required to be withheld under the provisions of this section that were paid to the state tax commission as prescribed in this section. Amounts required to be withheld and paid over to the state tax commission under this section that are not withheld or paid over at the time and in the manner required by the provisions of this section shall be a deficiency in tax as defined in section 63-3044, Idaho Code.

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

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

(2) When, pursuant to section 63-3022L, Idaho Code, the income tax of ~~an individual officer, director, shareholder, partner or member of a corporation or partnership, a pass-through entity~~ or of a beneficiary of a trust or estate is paid by the a corporation, partnership, trust or estate, the corporation, partnership, trust or estate shall also pay the tax imposed in subsection (1) of this section for each individual.

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

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2012.

Approved March 29, 2012.

CHAPTER 188
(H.B. No. 590)

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5205, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A PETITION SUBMITTED TO THE BOARD OF TRUSTEES, TO REVISE PROVISIONS RELATING TO PETITIONS RECEIVED BY AN AUTHORIZED CHARTERING ENTITY, TO REVISE PROVISIONS RELATING TO A PUBLIC HEARING, TO REVISE CERTAIN TIMING PROVISIONS, TO PROVIDE FOR AN AGREEMENT, TO PROVIDE FOR A PRIMARY ATTENDANCE AREA, TO REVISE PROVISIONS RELATING TO ADMISSION PROCEDURES, TO REVISE PROVISIONS RELATING TO TRANSPORTATION SERVICES, TO ESTABLISH PROVISIONS RELATING TO A CHARTER FOR A PUBLIC VIRTUAL SCHOOL, TO ELIMINATE LANGUAGE RELATING TO A PUBLIC CHARTER SCHOOL WORKSHOP AND TO ELIMINATE LANGUAGE RELATING TO A CHARTER FOR A PUBLIC VIRTUAL CHARTER SCHOOL; AMENDING SECTION 33-5205A, IDAHO CODE, TO REVISE TERMINOLOGY RELATING TO THE TRANSFER OF A CHARTER AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-5206, IDAHO CODE, TO REVISE PROVISIONS RELATING TO ATTENDANCE AREA, TO ESTABLISH PROVISIONS RELATING TO REVISION OF A CHARTER AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 33-5207, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE REVIEW OF A CHARTER PETITION; AMENDING SECTION 33-5208, IDAHO CODE, TO ELIMINATE OBSOLETE LANGUAGE AND TO REMOVE A CODE REFERENCE; AMENDING SECTION 33-5209, IDAHO CODE, TO ELIMINATE LANGUAGE RELATING TO THE REVISION OF A CHARTER; AMENDING SECTION 33-5210, IDAHO CODE, TO PROVIDE THAT CERTAIN PUBLIC CHARTER SCHOOLS ARE SUBJECT TO RULES; AMENDING SECTION 33-5211, IDAHO CODE, TO REVISE PROVISIONS RELATING TO ASSISTANCE PROVIDED BY THE STATE DEPARTMENT OF EDUCATION; AMENDING SECTION 33-5213, IDAHO CODE, TO REVISE PROVISIONS RELATING TO TERMS OF OFFICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1619, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AND AMENDING SECTION 33-5202A, IDAHO CODE, TO REMOVE A CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. 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.

(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. Proof of elector qualifications shall be provided with the petition.

(b) A petition to establish a new public virtual school must be submitted directly to the public charter school commission. 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 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 ~~sixty seventy-five~~ (6075) 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, ~~provided it is signed by thirty (30) qualified electors as required by subsection (1) (a) of this section.~~ 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 ~~sixty seventy-five~~ (6075) days after receiving a petition signed by ~~thirty (30) qualified electors as required by subsection (1) (a) of this section,~~ 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 ~~sixty seventy-five~~ (6075) days after receipt of the petition, which may be extended to ~~ninety (90) days 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 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. Following review of any petition and any public hearing provided for in this section, the authorized chartering entity shall either approve or deny the charter within sixty seventy-five (6075) days after the date of the public hearing, provided however, that the date may be extended by an additional sixty (60) days 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.

(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 thoroughness 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; and third, to students residing within the primary attendance area of the public charter school; and fourth, by an equitable selection process such as by 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 ~~third~~ 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, ~~who submit a timely application,~~ 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; and fourth, to students residing within the primary attendance area of the public charter school; and fifth, by an equitable selection process such as by 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 fourth highest priority group for which they would otherwise be eligible.

~~(kl)~~ The manner in which an annual audits of the financial and programmatic operations of the public charter school ~~is~~ are to be conducted.

~~(lm)~~ 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.

~~(mn)~~ 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.

~~(no)~~ The public school attendance alternative for students residing within the school district who choose not to attend the public charter school.

~~(op)~~ 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.

~~(pq)~~ A provision which ensures that the staff of the public charter school shall be considered a separate unit for purposes of collective bargaining.

~~(qr)~~ 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.

~~(rs)~~ A plan for working with parents who have students who are dually enrolled pursuant to section 33-203, Idaho Code.

~~(st)~~ The process by which the citizens in the ~~area of~~ primary attendance area shall be made aware of the enrollment opportunities of the public charter school.

~~(tu)~~ A proposal for transportation services ~~as required by section 33-5208(4), Idaho Code~~ including estimated first year costs.

~~(uv)~~ 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 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.

~~(5) 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.~~

~~(6) The public charter school commission 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 (4) 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, 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.~~

SECTION 2. 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 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 if the board of trustees of such local school district, the public charter school commission, and the board of directors of the public charter school all agree to such transfer, including any revision to the charter 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. 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, ~~approved~~ authorized by the public charter school commission, 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 ~~approved~~ primary attendance area if the public charter school commission, 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 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, 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 3. 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. ~~The attendance area of a charter school, as described in the petition, shall be composed of 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.~~

(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.

(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)(~~k~~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.

(8) A public charter school or the authorized chartering entity may enter into negotiations to revise its charter at any time. A public charter school may petition to revise its charter at any time. The authorized chartering entity's review of the revised petition shall be limited in scope solely to the proposed revisions. In those instances where a non-virtual public charter school submits a proposed charter revision to the public charter school commission 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 shall hold a public hearing on such petition. The public charter school commission 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 revoked pursuant to section 33-5209, 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 4. 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; (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) redirect the matter to another authorized chartering entity 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 5. 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 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. ~~For charter schools in the initial year of operation, the petition shall include a proposal~~

~~for transportation services with an estimated first year cost.~~ 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 zone 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, to assist the school with initial start-up costs or payroll obligations.

(a) For a state 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: ~~section 33-1003B, Idaho Code, relating to guaranteed minimum support;~~ 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) ~~For the period July 1, 2003, through June 30, 2005, all public virtual schools shall be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no higher than the median divisor shown for each respective category of pupils, among the possible divisors listed, for each respective category of pupils that contains more than one (1) divisor. If there is an even number of possible divisors listed for a particular category of pupils, then the lesser of the two (2) median divisors shall be used. For the period July 1, 2005, through June 30, 2007, all public virtual schools shall be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no higher than the second highest divisor shown, among the possible divisors listed, for each respective category of pupils that contains more than one (1) divisor.~~

~~The divisor provisions contained herein shall only be applicable to the number of pupils in average daily attendance in such public virtual schools for the period July 1, 2003, through June 30, 2004. If the number of pupils in average daily attendance in any particular category of pupils increases, during the period July 1, 2004, through June 30, 2005, to a number above that which existed in the prior fiscal year, then those additional pupils in average daily attendance shall be assigned the divisor, pursuant to section 33-1002, Idaho Code, that would have otherwise been assigned to the school district or public charter school had this section not been in force.~~

~~(b) 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.~~

~~(eb) 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 6. That Section 33-5209, Idaho Code, be, and the same is hereby amended to read as follows:

33-5209. ENFORCEMENT -- REVOCATION -- APPEAL. (1) An authorized chartering entity shall ensure that all public charter schools for which it approved petitions, or for which it has responsibility, operate in accordance with the approved charter. ~~A public charter school or the authorized chartering entity may enter into negotiations to revise its charter at any time. A public charter school may petition to revise its charter at any time. The authorized chartering entity's review of the revised petition shall be limited in scope solely to the proposed revisions. In those instances where a non-virtual public charter school submits a proposed charter revision to the public charter school commission 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 shall hold a public hearing on such petition. The public charter school commission 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.~~

(2) If the authorized chartering entity has reason to believe that the public charter school has done any of the following, it shall provide the public charter school written notice of the defect and provide a reasonable opportunity to cure the defect:

(a) Committed a material violation of any condition, standard or procedure set forth in the approved charter;

(b) Failed to substantially meet any of the student educational standards identified in the approved charter;

(c) Failed to meet generally accepted accounting standards of fiscal management;

(d) Failed to demonstrate fiscal soundness. In order to be fiscally sound, the public charter school must be:

(i) Fiscally stable on a short-term basis, that is, able to service all upcoming obligations; and

(ii) Fiscally sustainable as a going concern, that is, able to reasonably demonstrate its ability to service any debt and meet its financial obligations for the next fiscal year;

(e) Failed to submit required reports to the authorized chartering entity governing the charter; or

(f) Violated any provision of law.

(3) A charter may be revoked by the authorized chartering entity if the public charter school has failed to cure a defect after receiving reasonable notice and having had a reasonable opportunity to cure the defect. Revocation may not occur until the public charter school has been afforded a public hearing and a reasonable opportunity to cure the defect, unless the authorized chartering entity reasonably 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 governing 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 section 67-5242, Idaho Code. Reasonable 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.

(4) A decision to revoke 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, the public charter school subject to such action shall then be placed under the chartering authority of the commission.

SECTION 7. That Section 33-5210, Idaho Code, be, and the same is hereby amended to read as follows:

33-5210. APPLICATION OF SCHOOL LAW -- ACCOUNTABILITY -- EXEMPTION FROM STATE RULES. (1) All public charter schools are under the general supervision of the state board of education.

(2) Every authorized chartering entity that approves a charter shall be responsible for ensuring that each public charter school program approved by that authorized chartering entity meets the terms of the charter, complies with the general education laws of the state unless specifically directed otherwise in this chapter 52, title 33, Idaho Code, and operates in accordance with the state educational standards of thoroughness as defined in section 33-1612, Idaho Code.

(3) Each charter school shall comply with the financial reporting requirements of section 33-701, subsections 5. through 10., Idaho Code, in the same manner as those requirements are imposed upon school districts.

(4) Each public charter school is otherwise exempt from rules governing school districts which have been promulgated by the state board of education, with the exception of state rules relating to:

(a) Waiver of teacher certification as necessitated by the provisions of section 33-5205(3)(g), Idaho Code;

(b) Accreditation of the school as necessitated by the provisions of section 33-5205(3)(e), Idaho Code;

(c) Qualifications of a student for attendance at an alternative school as necessitated by the provisions of section 33-5208(3), Idaho Code;

(d) The requirement that all employees of the school undergo a criminal history check as required by section 33-130, Idaho Code; and

(e) All rules which specifically pertain to public charter schools promulgated by the state board of education. Public charter schools authorized by the public charter school commission are also subject to rules promulgated by the public charter school commission.

SECTION 8. That Section 33-5211, Idaho Code, be, and the same is hereby amended to read as follows:

33-5211. ~~ASSISTANCE WITH PETITIONS~~ -- 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.

(b) The annual audit performed at the public charter school pursuant to the public charter school petition.

(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 9. 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) 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; and

(c) One (1) member 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.

~~For the purpose of establishing staggered terms of office, the initial~~ The term of office for three (3) commission members shall be four (4) years and thereafter shall be four (4) years; ~~the initial term of office for two (2) members shall be three (3) years and thereafter shall be four (4) years; and the initial term of office for two (2) members shall be two (2) years and thereafter shall be four (4) years.~~ In making such appointments, the governor shall consider regional balance. 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 10. 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(8)(b), 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(8)(b), 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(8)(b), Idaho Code.

SECTION 11. 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 the local board of trustees of a school district in this state, or the public charter school commission pursuant to the provisions of this chapter.

(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) "Petition" means the document submitted by a person or persons to the authorized chartering entity to request the creation of a public charter school.

(5) "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 ~~33-5206(1)~~ 33-5205(3)(j), Idaho Code, participating school districts need not be contiguous.

(6) "Public charter school" means a school that is authorized under this chapter to deliver public education in Idaho.

(7) "Traditional public school" means any school existing or to be built that is operated and controlled by a school district in this state.

(8) "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.

Approved March 29, 2012.

CHAPTER 189
(H.B. No. 604)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-118, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE ADOPTION OF CURRICULAR MATERIALS, TO PROVIDE FOR CERTAIN FEES, TO PROVIDE THAT THE BOARD SHALL, BY RULE, DETERMINE THE PROCESS BY WHICH THE DEPARTMENT OF EDUCATION REVIEWS AND APPROVES ONLINE COURSES AND THE FEES NECESSARY TO DEFRAY THE DEPARTMENT'S COST OF SUCH REVIEW AND APPROVAL PROCESS.

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 also 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 33-1627, Idaho Code, and the fees necessary to defray the department's cost of such review and approval process.

Approved March 29, 2012.

CHAPTER 190
(H.B. No. 609)

AN ACT

RELATING TO PUBLIC ASSISTANCE LAW; AMENDING SECTION 56-255, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DENTAL SERVICES FOR CERTAIN MEDICAID PARTICIPANTS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 56-264, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE RULEMAKING AUTHORITY OF THE DEPARTMENT OF HEALTH AND WELFARE.

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

SECTION 1. That Section 56-255, Idaho Code, be, and the same is hereby amended to read as follows:

56-255. MEDICAL ASSISTANCE PROGRAM -- SERVICES TO BE PROVIDED. (1) The department may make payments for the following services furnished by providers to participants who are determined to be eligible on the dates on which the services were provided. Any service under this section shall be reimbursed only when medically necessary within the appropriations provided by law and in accordance with federal law and regulation, Idaho law and department rule. Notwithstanding any other provision of this chapter, medical assistance includes the following benefits specific to the eligibility categories established in section 56-254(1), (2) and (3), Idaho Code, as well as a list of benefits to which all Idaho medicaid participants are entitled, defined in subsection (5) of this section.

(2) Specific health benefits and limitations for low-income children and working-age adults with no special health needs include:

(a) All services described in subsection (5) of this section;

(b) Early and periodic screening, diagnosis and treatment services for individuals under age twenty-one (21) years, and treatment of conditions found; and

(c) Cost-sharing required of participants. Participants in the low-income children and working-age adult group are subject to the following premium payments, as stated in department rules:

(i) Participants with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty guideline are not required to pay premiums; and

(ii) Participants with family incomes above one hundred thirty-three percent (133%) of the federal poverty guideline will be required to pay premiums in accordance with department rule.

(3) Specific health benefits for persons with disabilities or special health needs include:

(a) All services described in subsection (5) of this section;

- (b) Early and periodic screening, diagnosis and treatment services for individuals under age twenty-one (21) years, and treatment of conditions found;
- (c) Case management services as defined in accordance with section 1905(a) (19) or section 1915(g) of the social security act; and
- (d) Mental health services delivered by providers that meet national accreditation standards, including:
 - (i) Inpatient psychiatric facility services whether in a hospital, or for persons under age twenty-two (22) years in a freestanding psychiatric facility, as permitted by federal law, in excess of those limits in department rules on inpatient psychiatric facility services provided under subsection (5) of this section;
 - (ii) Outpatient mental health services in excess of those limits in department rules on outpatient mental health services provided under subsection (5) of this section; and
 - (iii) Psychosocial rehabilitation for reduction of mental disability for children under the age of eighteen (18) years with a serious emotional disturbance (SED). Individuals age eighteen (18) years to age twenty-one (21) years with severe and persistent mental illness shall have access to benefits up to a weekly cap of five (5) hours while adults over the age of twenty-one (21) years with severe and persistent mental illness shall have access to benefits up to a weekly cap of four (4) hours;
- (e) Long-term care services, including:
 - (i) Nursing facility services, other than services in an institution for mental diseases, subject to participant cost-sharing;
 - (ii) Home-based and community-based services, subject to federal approval, provided to individuals who require nursing facility level of care who, without home-based and community-based services, would require institutionalization. These services will include community supports, including options for self-determination or family-directed, which will enable individuals to have greater freedom to manage their own care within the determined budget as defined by department rule; and
 - (iii) Personal care services in a participant's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse;
- (f) Services for persons with developmental disabilities, including:
 - (i) Intermediate care facility services, other than such services in an institution for mental diseases, for persons determined in accordance with section 1902(a) (31) of the social security act to be in need of such care, including such services in a public institution, or distinct part thereof, for persons with intellectual disabilities or persons with related conditions;
 - (ii) Home-based and community-based services, subject to federal approval, provided to individuals who require an intermediate care facility for people with intellectual disabilities (ICF/ID) level of care who, without home-based and community-based services, would require institutionalization. These services will include community supports, including options for self-determination or family-directed, which will enable individuals to have greater freedom to manage their own care within the determined budget as defined by department rule. The department shall respond to requests for budget modifications only when health and safety issues are identified and meet the criteria as defined in department rule; and
 - (iii) Developmental disability services for children and adults shall be available based on need through state plan services or waiver services as described in department rule. The department

- shall develop a blended rate covering both individual and group developmental therapy services; and
- (g) Home health services, including:
 - (i) Intermittent or part-time nursing services provided by a home health agency or by a registered nurse when no home health agency exists in the area;
 - (ii) Home health aide services provided by a home health agency; and
 - (iii) Physical therapy, occupational therapy or speech pathology and audiology services provided by a home health agency or medical rehabilitation facility;
 - (h) Hospice care in accordance with section 1905(o) of the social security act;
 - (i) Specialized medical equipment and supplies;
 - (j) Medicare cost-sharing, including:
 - (i) Medicare cost-sharing for qualified medicare beneficiaries described in section 1905(p) of the social security act;
 - (ii) Medicare part A premiums for qualified disabled and working individuals described in section 1902(a)(10)(E)(ii) of the social security act;
 - (iii) Medicare part B premiums for specified low-income medicare beneficiaries described in section 1902(a)(10)(E)(iii) of the social security act; and
 - (iv) Medicare part B premiums for qualifying individuals described in section 1902(a)(10)(E)(iv) and subject to section 1933 of the social security act; and
 - (k) Nonemergency medical transportation.
- (4) Specific health benefits for persons over twenty-one (21) years of age who have medicare and medicaid coverage include:
- (a) All services described in subsection (5) of this section, other than if provided under the federal medicare program;
 - (b) All services described in subsection (3) of this section, other than if provided under the federal medicare program;
 - (c) Other services that supplement medicare coverage; and
 - (d) Nonemergency medical transportation.
- (5) Benefits for all medicaid participants, unless specifically limited in subsection (2), (3) or (4) of this section, include the following:
- (a) Health care coverage including, but not limited to, basic inpatient and outpatient medical services, and including:
 - (i) Physicians' services, whether furnished in the office, the patient's home, a hospital, a nursing facility or elsewhere;
 - (ii) Services provided by a physician or other licensed practitioner to prevent disease, disability and other health conditions or their progressions, to prolong life, or to promote physical or mental health; and
 - (iii) Hospital care, including:
 1. Inpatient hospital services other than those services provided in an institution for mental diseases;
 2. Outpatient hospital services; and
 3. Emergency hospital services;
 - (iv) Laboratory and x-ray services;
 - (v) Prescribed drugs;
 - (vi) Family planning services and supplies for individuals of child-bearing age;
 - (vii) Certified pediatric or family nurse practitioners' services;
 - (viii) Emergency medical transportation;
 - (ix) Mental health services, including:

1. Outpatient mental health services that are appropriate, within limits stated in department rules; and
 2. Inpatient psychiatric facility services within limits stated in department rules;
- (x) Medical supplies, equipment, and appliances suitable for use in the home;
 - (xi) Physical therapy and speech therapies combined to align with the annual medicare caps; and
 - (xii) Occupational therapy to align with the annual medicare cap;
- (b) Primary care medical homes;
 - (c) Dental services. Children shall have access to prevention, diagnosis and treatment services as defined in federal law. Adult coverage shall be limited to medically necessary oral surgery and palliative services and associated diagnostic services. Select covered benefits include: exams, radiographs, periodontal, oral and maxillofacial surgery and adjunctive general services as defined in department rule. Pregnant women, participants on the aged and disabled waiver and the developmental disability waiver shall have access to dental services that reflect evidence-based practice;
 - (d) Medical care and any other type of remedial care recognized under Idaho law, furnished by licensed practitioners within the scope of their practice as defined by Idaho law, including:
 - (i) Podiatrists' services based on chronic care criteria as defined in department rule;
 - (ii) Optometrists' services based on chronic care criteria as defined in department rule;
 - (iii) Chiropractors' services shall be limited to six (6) visits per year; and
 - (iv) Other practitioners' services, in accordance with department rules;
 - (e) Services for individuals with speech, hearing and language disorders as defined in department rule;
 - (f) Eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist;
 - (g) Services provided by essential providers, including:
 - (i) Rural health clinic services and other ambulatory services furnished by a rural health clinic in accordance with section 1905(1) (1) of the social security act;
 - (ii) Federally qualified health center (FQHC) services and other ambulatory services that are covered under the plan and furnished by an FQHC in accordance with section 1905(1) (2) of the social security act;
 - (iii) Indian health services;
 - (iv) District health departments; and
 - (v) The family medicine residency of Idaho and the Idaho state university family medicine residency; and
 - (h) Physician, hospital or other services deemed experimental are excluded from coverage. The director may allow coverage of procedures or services deemed investigational if the procedures or services are as cost-effective as traditional, standard treatments.

SECTION 2. That Section 56-264, Idaho Code, be, and the same is hereby amended to read as follows:

56-264. RULEMAKING AUTHORITY. In addition to the rulemaking authority granted to the department in this chapter and elsewhere in Idaho Code regarding the medicaid program and notwithstanding any other Idaho law to the contrary, the department shall have the authority to promulgate rules regarding:

(1) Medical services to:

(a) Change the primary case management paid to providers to a tiered payment based on the health needs of the populations that are managed. A lower payment is to be made for healthier populations and a higher payment is to be made for individuals with special needs, disabilities or are otherwise at risk. An incentive payment is to be provided to practices that provide extended hours beyond the normal business hours that help reduce unnecessary higher-cost emergency care;

(b) Provide that a healthy connections referral is no longer required for urgent care as an alternative to higher cost but unnecessary emergency services; and

(c) Eliminate payment for collateral contact;

(2) Mental health services to:

(a) Eliminate administrative requirements for a functional and intake assessment and add a comprehensive diagnostic assessment addendum;

(b) Restrict duplicative skill training from being provided by a mental health provider when the individual has chosen to receive skill training from a developmental disability provider. The individual may choose to receive skill training from a mental health provider but can not receive skill building simultaneously from two (2) providers. Mental health providers may not provide training for skills included in the individual's developmental disability plan, but may provide services related to the individual's mental illness that require specialized expertise of mental health professionals, such as management of mental health symptoms, teaching coping skills related to mental health diagnosis, assisting with psychiatric medical appointments and educating individuals about their diagnosis and treatment;

(c) Increase the criteria for accessing the partial care benefit and restrict to those individuals who have a diagnosis of serious and persistent mental illness;

(d) Eliminate the requirement for new annual plans; and

(e) Direct the department to develop an effective management tool for psychosocial rehabilitation services;

(3) In-home care services to:

(a) Eliminate personal care service coordination; and

(b) Restrict duplicative nursing services from a home health agency when nursing services are being provided through the aged and disabled waiver;

(4) Vision services to:

(a) Align coverage requirements for contact lenses with commercial insurers and other state medicaid programs; and

(b) Limit coverage for adults based on chronic care criteria;

(5) Audiology services to eliminate audiology benefits for adults;

(6) Developmental disability services to:

(a) Eliminate payment for collateral contact;

(b) Eliminate supportive counseling benefit;

(c) Reduce annual assessment hours from twelve (12) to four (4) hours and exclude psychological and neuropsychological testing services within these limits;

(d) Reduce plan development payment from twelve (12) to six (6) hours and reduce requirements related to adult developmental disabilities plan development;

(e) Restrict duplicative skill training from being provided by a developmental disabilities provider when an individual has chosen to receive skill training from his mental health provider. The individual may receive skill development services from a developmental disability provider only for skills that are not addressed by the mental health service provider's plan and that relate directly to the individual's

developmental disability, such as skills related to activities of daily living and functional independence;

(f) Implement changes to certified family homes pursuant to chapter 31, title 39, Idaho Code, to:

(i) Create approval criteria and process for approving new certified family homes;

(ii) Recertify current certified family homes; and

(iii) Develop applicant and licensing fees to cover certifying and recertifying costs;

~~(g) Move individualized adult budgets to a tiered approach as currently used by the department for children's developmental therapy; and~~

(7) Institutional care services to discharge individuals from institutional settings where such services are no longer necessary.

Approved March 29, 2012.

CHAPTER 191
(S.B. No. 1344)

AN ACT

RELATING TO BEER AND BREWERS; AMENDING SECTION 23-1033, IDAHO CODE, TO PROVIDE THAT CERTAIN BREWERS MAY BE PERMITTED TO HAVE A FINANCIAL INTEREST IN ONE ADDITIONAL BREWERY.

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

SECTION 1. That Section 23-1033, Idaho Code, be, and the same is hereby amended to read as follows:

23-1033. FINANCIAL INTEREST IN OR AID TO RETAILERS PROHIBITED -- CERTAIN AID PERMITTED. (1) Except as provided in sections 23-1003(d), and 23-1003(e), Idaho Code, it shall be unlawful for any brewer, dealer, wholesaler, or the holder of any certificate of approval, directly or indirectly, or through an affiliate, subsidiary, officer, director, agent or employee:

(a) To have any financial interest in any licensed retailer's business, or to own or control any real property upon which a licensed retailer conducts his business, except such property as shall have been so owned or controlled continuously for more than one (1) year prior to July 1, 1975; provided however, that a brewer licensed pursuant to section 23-1003(d) or (e), Idaho Code, may be permitted to have a financial interest in one (1) additional brewery licensed pursuant to section 23-1003(d) or (e), Idaho Code; or

(b) To aid or assist any licensed retailer by giving such retailer, or any employee thereof, any discounts, premiums or rebates in connection with any sale of beer; or

(c) To aid or assist any licensed retailer by furnishing, giving, renting, lending or selling any equipment, signs, supplies, services, or other thing of value to the retailer which may be used in conducting the retailer's retail beer business, except as expressly permitted by this chapter; or

(d) To enter into any lease or other agreement with any retail licensee to control the product or products sold by such retailer; or

(e) To provide for any rental or other charge to be paid to or by the retailer for product display or advertising display space.

(2) A brewer, dealer, or wholesaler as an incident to merchandising in the ordinary course of business, and if available to all licensed retailers without discrimination, may sell to a retailer equipment, supplies, or clothing which may be used in conducting the retailer's retail business. A

brewer, dealer or wholesaler may not sell such equipment or supplies at a price, or under terms, intended or designed to encourage or induce the retailer to use products of the seller to the exclusion of the products of other brewers, dealers or wholesalers. In no event shall the sales price be less than the reasonable value of such equipment or supplies.

(3) Notwithstanding the provisions of subsection (2) of this section, a brewer, dealer, or wholesaler, as an incident to merchandising in the ordinary course of business, and if available to all retailers within the brewer, dealer or wholesaler's service area, without discrimination, may lend, give, furnish or sell to a retailer, the following items:

(a) Necessary accessory equipment, such as shaft blowers, tapping devices, valves, beer hoses, washers, couplings, clamps, air hoses, vents, faucets, CO gas regulators, picnic or party pumps, together with necessary nonmechanical or nonenergized equipment to enable cooling of beer, and CO gas or ice when the same is furnished at the current retail price and as a bona fide sale in the regular course of business;

(b) Signs, posters, placards, designs, devices, decorations or graphic displays bearing advertising matter and for use in windows or elsewhere in the interior of a retail establishment. The brewer, dealer or wholesaler shall not directly or indirectly pay or credit the retailer for displaying such materials or for any expense incidental to their operation;

(c) Newspaper cuts, mats or engraved blocks for use in retailer's advertisements;

(d) Items such as sports schedules, posters, calendars, informational pamphlets, decals and other similar materials for display at the point of sale which bear brand advertising for beer prominently displayed thereon, and which items are intended for use by the retailer's customers off the licensed premises and which items are made available to the retailer's customers for such purpose;

(e) Temporary signs or banners displaying a brewer's, dealer's or wholesaler's name, trademark or label, which signs may be permitted to be temporarily displayed on the exterior portion of the retailer premises in connection with a special event, in accordance with such rules relating thereto as may be established by the director.

(4) A distributor may perform services incident to or in connection with the following:

(a) The stocking, rotation and restocking of beer sold and delivered to such licensed retailer on or in such licensed retailer's storeroom, salesroom shelves or refrigerating units, including the marking or remarking of containers of such beer to indicate the selling price as established by the retailer and to the arranging, rearranging, or relocating of advertising displays referred to in this section. For the purposes of this paragraph, a wholesaler may, with the permission of the retailer, and in accordance with space allocations directed by the retailer, set, remove, replace, reset or relocate all beer upon the shelves of the retailer. Labor performed or schematics prepared by the wholesaler relating to conduct authorized pursuant to this paragraph shall not constitute prohibited conduct or unlawful aid to a retailer;

(b) (i) The inspection of a licensed retailer's draught equipment to insure sanitation and quality control;

(ii) The instruction of licensed retailers in the proper use, maintenance and care of draught equipment, glasses and products used in the sale and dispensing of beer and the preparation and distribution of written information or instructions to licensed retailers with respect thereto;

(iii) The tapping of kegs;

(iv) A wholesaler may perform such services as may be required to maintain sanitation or quality control and which are incident to

the repair and cleaning of a retailer's draught beer equipment and may furnish or sell the necessary equipment and repair parts and cleaning supplies required in the performance of such services.

(5) A wholesaler may assist a retailer by temporarily providing storage of the retailer's beer for a period not in excess of seven (7) days in the event that such storage is necessary to maintain the quality of such beer during a temporary loss or failure of the retailer's refrigeration equipment.

(6) A brewery, dealer or wholesaler may furnish or give to a retailer authorized to sell beer for consumption on the licensed premises, for sampling purposes only, a container of beer containing not more than sixty-four (64) ounces, not currently being sold by the retailer, and which container is clearly marked "NOT FOR SALE--FOR SAMPLING PURPOSES ONLY."

(7) The word "ale" or "malt liquor" may be substituted for "beer" on any sign used in connection with any advertising herein permitted, provided reference shall be to ale or malt liquor which has an alcoholic content not greater than the limitation prescribed in section 23-1002, Idaho Code.

(8) Every violation of the provisions of this section by a dealer, brewer or wholesaler, in which a licensed retailer shall have actively participated shall constitute a violation on the part of such licensed retailer.

Approved March 29, 2012.

CHAPTER 192
(H.B. No. 519)

AN ACT

RELATING TO TAXATION; AMENDING SECTION 63-602W, IDAHO CODE, TO PROVIDE THAT CERTAIN SITE IMPROVEMENTS SHALL BE EXEMPT FROM PROPERTY TAXATION; AMENDING SECTION 63-301A, IDAHO CODE, TO PROVIDE FOR A REDUCTION IN VALUE TO BE ADDED TO THE NEW CONSTRUCTION ROLL FOR THE EXEMPTION FOR SITE IMPROVEMENTS AND TO PROVIDE CORRECT CODE CITATIONS; 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 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 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 is conveyed from the land developer. An application is required for the exemption provided in this subsection.

SECTION 2. That Section 63-301A, Idaho Code, be, and the same is hereby amended to read as follows:

63-301A. NEW CONSTRUCTION ROLL. (1) The county assessor shall prepare a new construction roll, which shall be in addition to the property roll, which new construction roll shall show:

- (a) The name of the taxpayer;
- (b) The description of the new construction, suitably detailed to meet the requirements of the individual county;
- (c) A description of the land and its change in use, suitably detailed to meet the needs of the individual county;
- (d) The amount of taxable market value added to the property on the current year's property roll that is directly the result of new construction or a change in use of the land or both;
- (e) The amount of taxable market value added as provided in subsection (3) (g) of this section as a result of dissolution of any revenue allocation area;
- (f) The amount of taxable market value to be deducted to reflect the adjustments required in paragraphs (f) (i), (f) (ii), and (f) (iii) and (f) (iv) of this subsection:

- (i) Any board of tax appeals or court ordered value change, if property has a taxable value lower than that shown on any new construction roll in any one (1) of the immediate five (5) tax years preceding the current tax year;

- (ii) Any reduction in value resulting from correction of value improperly included on any previous new construction roll as a result of double or otherwise erroneous assessment;

- (iii) Any reduction in value, in any one (1) of the immediate five (5) tax years preceding the current tax year, resulting from a change of land use classification;

- (iv) Any reduction in value resulting from the exemption provided in section 63-602W(4), Idaho Code, in any one (1) of the immediate five (5) tax years preceding the current tax year.

(2) As soon as possible, but in any event by no later than the first Monday in June, the new construction roll shall be certified to the county auditor and a listing showing the amount of value on the new construction roll in each taxing district or unit be forwarded to the state tax commission on or before the fourth Monday in July. Provided however, the value shown in subsection (3) (f) of this section shall be reported to the appropriate county auditor by the state tax commission by the third Monday in July and the value sent by the county auditor to each taxing district. The value established pursuant to subsection (3) (f) of this section is subject to correction by the

state tax commission until the first Monday in September and any such corrections shall be sent to the appropriate county auditor, who shall notify any affected taxing districts.

(3) The value shown on the new construction roll shall include the taxable market value increase from:

- (a) Construction of any new structure that previously did not exist; or
- (b) Additions or alterations to existing nonresidential structures; or
- (c) Installation of new or used manufactured housing that did not previously exist within the county; or
- (d) Change of land use classification; or
- (e) Property newly taxable as a result of loss of the exemption provided by section 63-602W(3) or (4), Idaho Code; or
- (f) The construction of any improvement or installation of any equipment used for or in conjunction with the generation of electricity and the addition of any improvement or equipment intended to be so used, except property that has a value allocated or apportioned pursuant to section 63-405, Idaho Code, or that is owned by a cooperative or municipality, as those terms are defined in section 61-332A, Idaho Code, or that is owned by a public utility, as that term is defined in section 61-332A, Idaho Code, owning any other property that is allocated or apportioned. No replacement equipment or improvements may be included; or
- (g) Increases in value over the base value of property on the base assessment roll within an urban renewal revenue allocation area that has been terminated pursuant to section 50-2909(4), Idaho Code, to the extent that this increment exceeds the incremental value as of December 31, 2006, or, for revenue allocation areas formed after December 31, 2006, the entire increment value. Notwithstanding other provisions of this section, the new construction roll shall not include new construction located within an urban renewal district's revenue allocation area, except as provided in this subsection (3) (g); or
- (h) New construction, in any one (1) of the immediate five (5) tax years preceding the current tax year, allowable but never included on a new construction roll, provided however, that, for such property, the value on the new construction roll shall reflect the taxable value that would have been included on the new construction roll for the first year in which the property should have been included.
- (i) Formerly exempt improvements on state college or state university owned land for student dining, housing, or other education related purposes approved by the state board of education and board of regents of the university of Idaho as proper for the operation of such state college or university provided however, such improvements were never included on any previous new construction roll.

(4) The amount of taxable market value of new construction shall be the change in net taxable market value that is attributable directly to new construction or a change in use of the land or loss of the exemption provided by section 63-602W(3) or (4), Idaho Code. It shall not include any change in value of existing property that is due to external market forces such as general or localized inflation, except as provided in subsection (3) (g) of this section.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2012.

Law without signature.